

ALASKA LEGISLATURE COMMITTEE FILES, 2000-2000 80 / 2

11684 HOUSE STATE AFFAIRS

HB

461



ALASKA STATE LEGISLATURE

Representative Berta Gardner

House District 24

SPONSOR STATEMENT

House Bill 461

"An Act relating to disclosure to the Alaska Public Offices Commission of information about certain income received as compensation for personal services"

HB 461 is a simple bill designed to clarify Alaska Public Office Commission reporting requirements for legislators and other public officials.

Under the current legislative ethics code a public official must disclose the nature of any work performed as personal services for which compensation greater than \$5000 is received. HB 461 simply adds language to the existing statute to require the filer to provide a substantive description of what was done for the contract, as well as the approximate number of hours spent.

The public has repeatedly appealed for more substantive disclosures, and HB 461 provides the increased degree of openness they are calling for. This will assure the public that the compensation public officials receive for outside work does not conflict in any way with their public duties, without unduly burdening citizen legislators who perform legitimate duties outside of the public realm.

The clarification the bill provides will also help APOC fulfill its mission of encouraging the public's confidence in their elected and appointed officials.

Please join me in support of this important ethics legislation.

24-LS1656 Y
Wayne
4/7/06

CS FOR HOUSE BILL NO. 461()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

**Sponsor(s): REPRESENTATIVES GARDNER, Gara, Kerttula, Salmon, Guttentberg, Crawford, Croft,
Berkowitz, Weyhrauch**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to disclosure to the Alaska Public Offices Commission of information
2 about certain income received as compensation for personal services by legislators,
3 public members of the Select Committee on Legislative Ethics, and legislative directors
4 subject to the provisions of the Legislative Ethics Act; and providing for an effective
5 date."

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

7 * **Section 1.** AS 24.60.200(a) is amended to read:

8 (a) A legislator, a public member of the committee, and a legislative director
9 shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska
10 Public Offices Commission giving the following information about the income
11 received by the discloser, the discloser's spouse or domestic partner, the discloser's
12 dependent children, and the discloser's nondependent children who are living with the
13 discloser:

1 (1) the information that a public official is required to report under
2 AS 39.50.030, other than information about gifts;

3 (2) as to income in excess of \$5,000 received as compensation for
4 personal services, and as to a dividend received from a limited liability company
5 as compensation for personal services, the name and address of the source of the
6 income, and a statement describing

7 (A) the nature of the services performed and, if those services
8 do not require the issuance of a state or federal professional license,
9 additional description sufficient to make clear to a person of ordinary
10 understanding the specific services performed;

11 (B) the approximate total number of hours that have been
12 spent or will be spent performing the services; and

13 (C) the amount of income received from the source, if the [
14 IF THE SOURCE OF INCOME IS KNOWN OR REASONABLY SHOULD
15 BE KNOWN TO HAVE A SUBSTANTIAL INTEREST IN LEGISLATIVE,
16 ADMINISTRATIVE, OR POLITICAL ACTION AND THE] recipient of the
17 income is a legislator or a legislative director [. THE AMOUNT OF INCOME
18 RECEIVED FROM THE SOURCE SHALL BE DISCLOSED];

19 (3) as to each loan or loan guarantee over \$1,000 from a source with a
20 substantial interest in legislative, administrative, or political action, the name and
21 address of the person making the loan or guarantee, the amount of the loan, the terms
22 and conditions under which the loan or guarantee was given, the amount outstanding
23 at the time of filing, and whether or not a written loan agreement exists.

24 * Sec. 2. AS 24.60.990(a) is amended by adding a new paragraph to read:

25 (17) "professional license" means a license required for a profession
26 regulated by the federal government or by a state.

27 * Sec. 3. This Act takes effect July 1, 2006.

HOUSE BILL NO. 461

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GARDNER, Gara, Keritula, Salmon, Guttentberg, Crawford, Croft, Berkowitz

Introduced: 2/13/06

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to disclosure to the Alaska Public Offices Commission of information
2 about certain income received as compensation for personal services by legislators,
3 public members of the Select Committee on Legislative Ethics, and legislative directors
4 subject to the provisions of law setting standards of conduct for legislative branch
5 officers and employees; and providing for an effective date."

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

7 * Section 1. AS 24.60.200(a) is amended to read:

8 (a) A legislator, a public member of the committee, and a legislative director
9 shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska
10 Public Offices Commission giving the following information about the income
11 received by the discloser, the discloser's spouse or domestic partner, the discloser's
12 dependent children, and the discloser's nondependent children who are living with the
13 discloser:

1 (1) the information that a public official is required to report under
2 AS 39.50.030, other than information about gifts;

3 (2) as to income in excess of \$5,000 received as compensation for
4 personal services, the name and address of the source of the income, and a statement
5 describing in detail the nature of the services performed and the approximate
6 number of hours that have been or will be spent performing the services; if the
7 source of income is known or reasonably should be known to have a substantial
8 interest in legislative, administrative, or political action and the recipient of the income
9 is a legislator or a legislative director, the amount of income received from the source
10 shall be disclosed;

11 (3) as to each loan or loan guarantee over \$1,000 from a source with a
12 substantial interest in legislative, administrative, or political action, the name and
13 address of the person making the loan or guarantee, the amount of the loan, the terms
14 and conditions under which the loan or guarantee was given, the amount outstanding
15 at the time of filing, and whether or not a written loan agreement exists.

16 * Sec. 2. This Act takes effect July 1, 2006.

*Attorney
Type of law*



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name

Committee on HB 461, dated 4-13-06
bill # / subject public hearing date

Honorable Representatives

I would like to present my view on HB 461 that is before you today.

This bill represents a moderate view of transparency that would clarify the ethics of monies received by elected officials from sources who may have a vested interest in pushing for legislation or access to changes in legislation that would benefit the givers or those whom they represent. There has been so much said these days about transparency in governance. It has been my experience in the past few years, that information provided for an educated constituency has been sorely lacking if one is a working person with family obligations. I understand that it is difficult to be in a spotlight, but that comes with the territory our elected officials have chosen.

I would commend this bill for its forthrightness in developing the transparency that was the intent of our forefathers who gave us the Constitution. Clarity is important in providing legislation that affects our affairs every day. Money and other benefits that have been allocated for us, the ordinary citizen, should be offered to the ordinary citizen in the manner in which it was intended, not purchased by money or perks to a chosen few.

Signed: Mary J. Toutonghi
Testifier

Representing (optional)

PO Box 2244 Soldotna, AK. 99669
Address

Phone number

Iris Matthews

From: sara petty [pettyinak@hotmail.com]

Sent: Tuesday, April 04, 2006 1:00 PM

To: Rep. Beta Gardner

Subject: House Bill 461

Dear Rep. Gardner,

First I want thank you for introducing this bill, i think it's a very important step in the right direction. This bill is also introduced not a moment too late, many people are wary of the people who are representing us, full disclosure is the only way to keep politics honest, and if you check the words 'integrity' and 'ethics' were some of the top words looked up last year. If there is anything i can do to help you with this bill, please let me know.

much respect,

sara petty

anchorage

Be one of the first to try [Windows Live Mail](#)

Rep. Berta Gardner

From: tuckerman@gci.net
Sent: Friday, March 31, 2006 12:29 AM
To: Rep. Berta Gardner
Subject: Disclosing Consulting Income and Work Product

Dear Berta -

KTUU broadcast an article on the evening newscasts today (3/30/06) highlighting your work to increase disclosure of the sources of legislators' income. We want to encourage you in your efforts.

Dee and I both strongly feel that a legislator should disclose his or her income in sufficient detail so that the public - voters - can judge whether or not there is an apparent conflict of interest. The bare statement that a legislator's income resulted from providing consulting services for a specific company is not detailed enough for a voter to reach any conclusion. It seems to us that the matter under consultation should also be disclosed, especially as the legislator is working for private interests when they consult for pay.

A few legislators may feel that their public work is only part-time employment; we disagree. Legislators are officially representatives of the public all of the time, even though they may not work full time at their legislative duties.

Some legislators earn several hundreds of thousands of dollars providing consulting services. They are paid nowhere near that amount for their work as legislators. We would like to think that public duty comes first, whether it pays well or not.

Both of us were public employees, Dee for 20 years as a member of the military, and I for 30 years, 3 in the Army and 27 years in Federal civil service. We lived under very specific codes of conduct which included revealing all sources of outside income when asked to do so.

We both believe that public duty comes before private gain. We hope that all legislators believe that. Please continue your work to get better disclosure of all legislators' private income.

Dee and Jake Tuckerman

PS: The newscasts also had a clip featuring Rep. Harris saying that he didn't think that disclosure of consulting income got the public's attention. You can tell Rep. Harris that these voters do care about where and from whom and for what a legislator gets his or her money.

Full disclosure is the only way to keep special interests under control

So the Anchorage Baptist Temple doesn't want to pay taxes on properties occupied by teachers and a janitor. The treasurer of the Republican Party of Alaska, the top lieutenant of the Baptist Temple, visits his soldiers in Juneau. Suddenly, a bill to help poor people get a tax deferral becomes a free pass for the Anchorage Baptist Temple. Classic special-interest legislation.

But then, special interests and cozy deals are nothing new in Juneau. Think Randy Ruedrich and Gregg Renkes. And then there is Sen. Ben Stevens, with secret options for seafood companies that could reap millions. Failing to disclose chairmanship of a marketing board that has doled out millions of federal dollars to fishing interests that also happen to pay you for consulting work. Over a million dollars since taking office, I read. When pressed to tell us what was done to earn so much money, the answer was pretty much, "None of your business." And the way the law is written, the Alaska Public Offices Commission had to agree. It is past time to tighten Alaska's disclosure laws.

Rep. Berta Gardner's House Bill 461 provides a simple solution: Give us a detailed explanation of what you did to earn the money, and how much time you spent doing it. "I'm a consultant" isn't enough. Full disclosure is the only way to shine a light on these deals and prevent conflicts of interest.

---- Lynn Ruffing

ADN
letter to editor

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 461
 () Publish Date: 2/13/2006

Revision Date/Time (Note if correction): 3/28/06 5:30 p.m. Dept. Affected: Administration
 Title: An Act relating to disclosure to the Alaska Public RDU: AK Public Offices Commission
Offices Commission of information.... Component: AK Public Offices Commission
 Sponsor: Representative Gardner
 Requester: House State Affairs Committee Component No. 70

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Commission is submitting an indeterminate fiscal note on HB 461. The legislation may require additional funds because it provides a new requirement that will likely attract third-party complaints. However, it is impossible to predict with any accuracy the actual fiscal impact.

Prepared by: Brooke Miles, Executive Director
 Division: Alaska Public Offices Commission
 Approved by: Michael Tibbles, Deputy Commissioner
 Agency: Administration

Phone (907) 334-1726
 Date/Time 3/28/2006/5:30 p.m.
 Date 3/29/2006

AMENDMENT #1

w/drawn for rework
by A/OC/legal

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: HB 461

- 1 Page 2, line 4, following "services,":
- 2 Insert "and, as to a dividend received from a limited liability corporation as
- 3 compensation for personal services,"

↑
 Greenberg submit (concur)
 check ↑

Call Dee Hubbard when
 bill returns

HB

475

ALASKA STATE LEGISLATURE

Chair
STATE AFFAIRS

Member
RESOURCES

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
WAYS AND MEANS



REPRESENTATIVE PAUL SEATON
House District 35

Session:
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Juneau, Alaska 99801
Phone 907-465-2689
Fax 907-465-3472
1-800-665-2689
Rep.Paul.Seaton@legis.state.ak.us

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345 W. Sterling Highway
Suite 102B
Homer, Alaska 99603
Phone 907-235-2921
Fax 907-235-4008

Sponsor Statement HB 475

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

Revisions encompassed in HB 475:

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

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



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 15, 2006

SUBJECT: Legal and drafting issues regarding CSHB 475(STA)
(Work Order No. 24-LS1685I)

TO: Representative Paul Seaton
Chair of the House State Affairs Committee
Attn: Louie Flora

FROM: Dan Wayne 
Legislative Counsel

Enclosed is the requested CSHB 475(STA), based on six amendments by the House State Affairs Committee. I made a few changes, and have a few concerns, as follows:

Amendments 1 and 2.

Wherever the terms "receiving" or "received" are used in connection with "benefits" in amendments one and amendment two, I suggest "should have been receiving," "could have been receiving," or "eligible to receive." The change would extend the provisions of the amendments beyond those persons who have actually received benefits or are receiving benefits, to persons eligible to receive benefits who, for one reason or another, are not receiving or have not received benefits.

The phrase "during the entire preceding calendar year," occurs four times in these first two amendments, in reference to a pre-requisite for a person's eligibility for an annual increase in benefits.¹ The meaning of the phrase as used is vague and imprecise and makes the bill vulnerable to varying interpretations and future litigation if it becomes law. I think the risk of misinterpretation is diminished by inserting "at any time" at the beginning of the phrase wherever it appears in these two amendments.

AS 14.25.488(a) refers to a pension under "AS 14.25.487(c)" while AS 14.25.488(f) refers to a pension under "AS 14.25.487(e)." A similar difference exists in AS 39.35.897(a) and (f). Is the difference intended?

¹ Proposed AS 14.25.486(b) and 14.25.488(c), and proposed AS 39.35.893(b) and 39.35.893(c).

Representative Paul Seaton

March 15, 2006

Page 2

In proposed 14.25.488(a) and 39.35.893(a) I changed "persons" to "person" and made other technical changes conforming language to the singular, which is used throughout PERS/TRS and is preferred drafting.

Amendment 3.

The meaning of the phrase "at the plan level" in the last sentence of AS 39.35.250(b) may need clarifying. I was unable to determine its meaning so I left it unchanged.

I inserted language to clarify the term "governmental accounting standards board" as used in the proposed amendment to AS 39.35.250(c), in part to distinguish it from "the board" (Alaska Retirement Management Board) referred to throughout PERS/TRS. There is a Governmental Accounting Standards Board used by state and local governments in the U.S. as a source of generally accepted accounting principles. It is a private, non-government, organization.²

Please note that the terms "consolidated employer normal cost rate" and "past service rate" are used in AS 39.35.270(a) as well as AS 39.35.250, but the definition is only in AS 39.35.250. A cross-reference in AS 39.35.270 would be useful.

Amendment 4.

I clarified "governmental accounting standards board" as I did with Amendment 3. (I also note that the last sentences of AS 14.25.070(e) and (f) differ from the equivalent in AS 39.35.250(b), but I do not know if that was the committee's intent or not so I have not conformed one to the other).

Amendment 5.

I changed the page, line, and section numbers in this amendment as called for, and made conforming technical changes as needed in the sections following.

Conceptual Amendment 6.

I made a change by inserting the phrase "participating in the defined contribution retirement plan under AS 39.35.700 - 39.35.990" after "A political subdivision or public organization" at the beginning of proposed 39.35.957(a), in order to clarify meaning. I also corrected an apparent typographical error in the last line of proposed 39.35.958. "39.35.495" is now 39.30.495.

Finally, I bring to your attention legal and constitutional issues raised in proposed 39.35.957(b), added by conceptual amendment 6. It can be interpreted as divesting a defined benefit plan member of constitutional and contractual rights, and diminishing or impairing accrued retirement benefits. Article XII, sec. 7 of the state constitution declares that membership in a state or political subdivision retirement system constitutes

² www.gasb.org.

Representative Paul Seaton

March 15, 2006

Page 3

a contractual relationship and that accrued retirement benefits may not be diminished or impaired.

A right to benefits under a state retirement system vests immediately upon the employee's enrollment in the system.³ While the retirement system may be changed to permit the pension system to make adjustments, the modifications must be reasonable and any change that results in a disadvantage to employees must be offset by comparable new advantages.⁴ As written, this subsection can be understood to mean that an employer may choose to terminate participation in the defined benefit retirement plan and in doing so force an employee eligible for participation in that plan to participate in a less advantageous plan. I suggest adding a sentence to the subsection along the lines of "nothing in this subsection allows accrued retirement benefits to be diminished or impaired."

If I may be of further assistance, please advise.

DCW:ljw
06-127.ljw

Enclosure

³ Hammond v. Hoffbeck, 627 P.2d 1052 (Alaska 1981).

⁴ Hoffbeck at 1057.

24-LS1685G
Wayne
2/22/06

CS FOR HOUSE BILL NO. 475()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Introduced:
Referred:

Sponsor(s): REPRESENTATIVE SEATON

A BILL

FOR AN ACT ENTITLED

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

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

2 * Section 1. AS 14.25.350 is amended by adding a new subsection to read:

3 (e) An employer shall make annual contributions to a trust account in the
4 health reimbursement arrangement plan under AS 39.30.300 in an amount the board
5 determines is necessary, based on actuarial study, to fully fund the cost of providing
6 occupational disability and occupational death benefits under AS 14.25.485 and
7 14.25.487.

8 * Sec. 2. AS 14.25.470(g) is amended to read:

9 (g) An eligible person shall make the irrevocable election to participate or not
10 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
11 or upon application for retirement and medical benefits, whichever is later. The
12 administrator may require an eligible person who elected to defer participation
13 in the retiree major medical insurance plan at the time the person applied for
14 retirement to show evidence of insurability or provide a letter of coverage. If the
15 person does not establish insurability or provide a letter of coverage, the
16 administrator may prohibit participation by the person in the retiree major
17 medical insurance plan.

18 * Sec. 3. AS 14.25.485(c) is amended to read:

19 (c) If the disabled member becomes ineligible to receive occupational
20 disability benefits before the normal retirement date, the disabled member shall then
21 be entitled to receive retirement benefits if the member would have been eligible for
22 the benefit had employment continued during the period of disability. The period of
23 disability constitutes membership service for the purpose of [IN REGARD TO]
24 determining vesting in employer contributions under AS 14.25.390(b) and
25 eligibility for retirement and medical benefits under this chapter and AS 39.30.300
26 - 39.30.495.

27 * Sec. 4. AS 14.25.485(d) is amended to read:

28 (d) The monthly amount of an occupational disability benefit is 40 percent of
29 the disabled member's gross monthly compensation at the time of termination due to
30 disability. A member is not entitled to elect distributions from the member's
31 individual contribution account under AS 14.25.410 while the member is

1 receiving disability benefits under this section. While a member is receiving
2 disability benefits, based on the disabled member's gross monthly compensation at the
3 time of termination due to disability, the employer shall make contributions to the

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

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

8 * Sec. 5. AS 14.25.485(g) is amended to read:

9 (g) A disabled member's occupational disability benefit terminates the first
10 day of the month following the date [WHEN] the disabled member first qualifies
11 [ATTAINS ELIGIBILITY] for normal retirement. A [AT THAT TIME, THE]
12 member's retirement benefit shall be determined from the date of termination and
13 under the provisions of AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. A
14 member whose occupational disability benefit terminates under this subsection
15 [RECEIVING DISABILITY BENEFITS UP UNTIL ELIGIBILITY FOR
16 RETIREMENT] shall be considered to have retired directly from the occupational
17 disability plan.

18 * Sec. 6. AS 14.25.485(i) is amended to read:

19 (i) Upon the death of a disabled member who is receiving or is entitled to
20 receive an occupational disability benefit, the administrator shall pay the surviving
21 spouse a surviving spouse's pension, equal to 40 percent of the member's monthly
22 compensation at the termination of employment because of occupational disability. If
23 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
24 parts to the dependent children of the member. The first payment of the surviving
25 spouse's pension or of a dependent child's pension shall accrue from the first day of
26 the month following the member's death and is payable the last day of the month. The
27 last payment shall be made the last day of [FOR] the last month in which there is an
28 eligible surviving spouse or child, or the first day of the month following the
29 earliest date the member would have been eligible to qualify for normal
30 retirement if the member had survived, whichever day comes sooner. A
31 retirement benefit shall be determined under the provisions of AS 14.25.420 -

1 14.25.440, 14.25.470, and 14.25.480 based on [ON] the date the member would
2 have first been eligible to qualify for normal retirement [OF THE MEMBER
3 WOULD HAVE OCCURRED] if the member had survived. [THE purpose of
4 determining eligibility of a member's surviving beneficiary for medical benefits
5 under AS 14.25.470 - 14.25.480 when the surviving beneficiary is receiving an
6 occupational disability benefit under this subsection, a [LIVED, THE
7 RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE PROVISIONS
8 OF AS 14.25.420 - 14.25.440, 14.25.470, AND 14.25.480. A] member who died
9 while receiving disability benefits shall be considered to have retired directly from the
10 plan on the date the member would have first been eligible to qualify for normal
11 retirement [OF THE MEMBER WOULD HAVE OCCURRED] if the member had
12 lived. The period during which the member was eligible for a disability benefit
13 and the period during which a pension benefit is paid to a surviving spouse or
14 surviving dependent child under this subsection each constitute membership
15 service for the purpose of determining vesting in employer contributions under
16 AS 14.25.390(b) and eligibility for retirement and medical benefits under this
17 chapter and AS 39.30.300 - 39.30.495.

18 * Sec. 7. AS 14.25.487(b) is amended to read:

19 (b) The first payment of the surviving spouse's pension or of a dependent
20 child's pension shall be made for the month following the month in which the member
21 dies. Payments [, AND PAYMENT] shall cease on the first month in which there is
22 no eligible spouse or eligible child, or the first day of the month following the
23 earliest date the member would have been eligible to qualify for normal
24 retirement if the member had survived, whichever day is sooner [TO BE MADE
25 BEGINNING WITH THE MONTH IN WHICH THE MEMBER WOULD HAVE
26 FIRST QUALIFIED FOR RETIREMENT].

27 * Sec. 8. AS 14.25.487(c) is amended to read:

28 (c) The monthly survivor's pension in (b) of this section for survivors of
29 members is 40 percent of the member's monthly compensation in the month in which
30 the member dies. While the monthly survivor's pension is being paid, the survivor
31 is not entitled to elect distributions from the member's individual contribution

1 account under AS 14.25.410, except as required by AS 14.25.440. While the
2 monthly survivor's pension is being paid, the employer shall make contributions on
3 behalf of the member's surviving spouse and surviving dependent children
4 [BENEFICIARIES] based on the deceased member's gross monthly compensation at
5 the time of occupational death

6 (1) to the member's individual account under AS 14.25.340, without
7 deduction from the survivor's pension; and

8 (2) to the appropriate accounts and funds on behalf of the member
9 under AS 14.25.350.

10 * Sec. 9. AS 14.25.487(e) is amended to read:

11 (e) On the date the member would have first been eligible to qualify for
12 normal retirement [OF THE MEMBER WOULD HAVE OCCURRED] if the member
13 had survived [LIVED], the retirement benefit shall be determined under the
14 provisions of AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. A member who
15 died and whose survivors receive occupational death benefits under this section shall
16 be considered to have retired directly from the plan on the date the [NORMAL
17 RETIREMENT OF THE] member would have first been eligible to qualify for
18 normal retirement [OCCURRED] if the member had survived. The period during
19 which the member was eligible for a disability benefit and the period during
20 which a pension benefit is paid to a surviving spouse or surviving dependent child
21 under this subsection each constitute membership service for the purpose of
22 determining vesting in employer contributions under AS 14.25.390(b) and
23 eligibility for retirement and medical benefits under this chapter and
24 AS 39.30.300 - 39.30.495 [LIVED].

25 * Sec. 10. AS 14.25.540(d) is amended to read:

26 (d) Upon a transfer, all membership service previously earned under the
27 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
28 benefit under the defined benefit retirement plan but shall be credited for purpose
29 determining vesting in employer contributions under AS 14.25.390(b) and
30 eligibility to elect medical benefits under AS 14.25.470. Membership service allowed
31 for credit toward medical benefits does not include any service credit purchased under

1 AS 14.25.075 for employment by an employer who is not a participating employer in
2 this chapter.

3 * Sec. 11. AS 14.25.540(h) is amended to read:

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

25 * Sec. 12. AS 14.25.540(i) is amended to read:

26 (i) A member may make an election under this section only if the member's
27 employer participates in both the defined benefit retirement plan and the defined
28 contribution retirement plan and consents to transfers under this section. The employer
29 shall notify the administrator if the employer consents to allowing the employer's
30 members to choose to transfer from the defined benefit retirement plan to the defined
31 contribution retirement plan under this section. A period during which the

1 employer's members may choose to transfer commences on the first day of the
2 month following the administrator's receipt of notice under (b) of this section and
3 continues for 12 months unless the employer elects in the final month to extend
4 the period for another 12 months. An employer's notice to allow transfers is
5 irrevocable and applicable to all eligible employees of the employer.

6 * Sec. 13. AS 39.30.160(a) is amended to read:

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

- 12 (1) supplemental health benefits;
- 13 (2) supplemental death benefits;
- 14 (3) supplemental disability benefits; and
- 15 (4) supplemental dependent care benefits.

16 * Sec. 14. AS 39.30.160(e) is amended to read:

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

20 * Sec. 15. AS 39.30 is amended by adding a new section to read:

21 **Sec. 39.30.165. Appeals.** A final decision made under AS 39.30.150 -
22 39.30.180 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
23 delegated to the administrative law judge and shall issue within 180 days after the date
24 the administrator receives the appeal, unless the administrative law judge and all
25 parties agree to another time.

26 * Sec. 16. AS 39.30 is amended by adding a new section to read:

27 **Sec. 39.30.335. Appeals.** A final decision made under AS 39.30.300 -
28 39.30.495 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
29 delegated to the administrative law judge and shall issue within 180 days after the date
30 the administrator receives the appeal, unless the administrative law judge and all
31 parties agree to another time.

1
2 * Sec. 17. AS 39.30.370 is amended to read:

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

11 * Sec. 18. AS 39.30.380 is amended to read:

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

22 * Sec. 19. AS 39.30.390 is amended to read:

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

30 * Sec. 20. AS 39.35.522(d) is amended to read:

31 (d) A ruling of the [THE] commissioner of administration denying a waiver

1 under this section may be appealed under AS 44.64. The administrative law
2 judge may reverse the ruling of the commissioner and may impose equitable
3 conditions on the granting of a waiver [WHICH IT CONSIDERS EQUITABLE].
4 These conditions may include requiring the member or beneficiary to make additional
5 contributions to the plan.

6 * Sec. 21. AS 39.35.680(3) is amended to read:

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

10 * Sec. 22. AS 39.35.750(e) is amended to read:

11 (e) An employer shall make annual contributions to a trust account in the
12 plan in an amount determined by the board to be actuarially required to fully fund the
13 cost of providing occupational disability and occupational death benefits under
14 AS 39.35.890 and 39.35.892 and retirement benefits elected by disabled peace
15 officers and fire fighters under AS 39.35.890(h)(2). The contribution required under
16 this subsection for peace officers and fire fighters and the contribution required under
17 this subsection for other employees shall be separately calculated based on the
18 actuarially calculated costs for each group of employees.

19 * Sec. 23. AS 39.35.870(g) is amended to read:

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

29 * Sec. 24. AS 39.35.890(c) is amended to read:

30 (c) If the disabled employee becomes ineligible to receive occupational
31 disability benefits before the normal retirement date, the disabled employee shall then

1 be entitled to receive retirement benefits if the employee would have been eligible for
2 the benefit had employment continued during the period of disability. The period of
3 disability constitutes membership service for the purpose of [IN REGARD TO]
4 determining vesting in employer contributions under AS 39.35.790(b) and
5 eligibility for retirement and medical benefits under this chapter and AS 39.30.300
6 - 39.30.495.

7 * Sec. 25. AS 39.35.890(d) is amended to read:

8 (d) The monthly amount of an occupational disability benefit is 40 percent of
9 the disabled employee's gross monthly compensation at the time of termination due to
10 disability. An employee is not entitled to elect distributions from the employee's
11 individual contribution account under AS 39.35.810 while the employee is
12 receiving disability benefits under this section. While an employee is receiving
13 disability benefits, based on the disabled employee's gross monthly compensation at
14 the time of termination due to disability, the employer shall make contributions

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

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

18 * Sec. 26. AS 39.35.890(h) is amended to read:

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

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

25 (2) employee's retirement benefit calculated as if the provisions of
26 AS 39.35.370(c) were to apply; however, retirement benefits paid under this paragraph
27 must be paid first from the peace officer's or fire fighter's individual contribution
28 account, and the remaining benefits must be paid from the trust account
29 established under AS 39.35.750(e); the peace officer or fire fighter may not elect
30 other distributions from the peace officer's or fire fighter's individual
31 contribution account under AS 39.35.810 while receiving retirement benefits

1 under this paragraph [MAY NOT BE MADE FROM THE TRUST FUND OF THE
2 PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN].

3 * Sec. 27. AS 39.35.890(k) is amended to read:

4 (k) Upon the death of a disabled employee who is receiving or is entitled to
5 receive an occupational disability benefit, the administrator shall pay the surviving
6 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly
7 compensation at the termination of employment because of occupational disability. If
8 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
9 parts to the dependent children of the employee. The first payment of the surviving
10 spouse's pension or of a dependent child's pension shall accrue from the first day of
11 the month following the employee's death and is payable the last day of the month.
12 The last payment shall be made the last day of [FOR] the last month in which there is
13 an eligible surviving spouse or child, or the first day of the month following the
14 earliest date the employee would have been eligible to qualify for normal
15 retirement if the employee had survived, whichever day comes sooner. A
16 retirement benefit shall be determined under the provisions of AS 39.35.820 -
17 39.35.840, 39.35.870, and 39.35.880 based on [. ON] the date the employee would
18 have first been eligible to qualify for normal retirement [OF THE EMPLOYEE
19 WOULD HAVE OCCURRED] if the employee had survived. For the purpose of
20 determining eligibility of an employee's surviving beneficiary for medical benefits
21 under AS 39.35.870 - 39.35.880, when the surviving beneficiary is receiving an
22 occupational disability benefit under this subsection, an employee [LIVED, THE
23 RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE PROVISIONS
24 OF AS 39.35.820 - 39.35.840, 39.35.870, AND 39.35.880. AN EMPLOYEE] who
25 died while receiving disability benefits shall be considered to have retired directly
26 from the plan on the date the employee would have been eligible for normal
27 retirement if the employee had survived. The period during which the employee
28 was eligible for a disability benefit and the period during which a pension benefit
29 is paid to a surviving spouse or surviving dependent child under this subsection
30 each constitute membership service for the purpose of determining vesting in
31 employer contributions under AS 39.35.790(b) and eligibility for retirement and

1 medical benefits under this chapter and AS 39.30.300 - 39.30.495 [NORMAL
2 RETIREMENT OF THE EMPLOYEE WOULD HAVE OCCURRED IF THE
3 EMPLOYEE HAD LIVED].

4 * Sec. 28. AS 39.35.892(b) is amended to read:

5 (b) The first payment of the surviving spouse's pension or of a dependent
6 child's pension shall be made for the month following the month in which the
7 employee dies. Payments [, AND PAYMENT] shall cease on the first month in
8 which there is no eligible spouse or eligible child, or the first day of the month
9 following the earliest date the employee would have been eligible to qualify
10 normal retirement if the employee had survived, whichever day comes sooner
11 [TO BE MADE BEGINNING WITH THE MONTH IN WHICH THE EMPLOYEE
12 WOULD HAVE FIRST QUALIFIED FOR RETIREMENT].

13 * Sec. 29. AS 39.35.892(c) is amended to read:

14 (c) The monthly survivor's pension in (b) of this section for survivors of
15 employees who were not peace officers or fire fighters is 40 percent of the employee's
16 monthly compensation in the month in which the employee dies. The monthly
17 survivor's pension in (b) of this section for survivors of employees who were peace
18 officers or fire fighters is 50 percent of the monthly compensation in the month in
19 which the employee dies. While the monthly survivor's pension is being paid, the
20 survivor is not entitled to elect distributions from the employee's individual
21 contribution account under AS 39.35.810, except as required by AS 39.35.840.
22 While the monthly survivor's pension is being paid, the employer shall make
23 contributions on behalf of the employee's surviving spouse and surviving dependent
24 children [BENEFICIARIES] based on the deceased employee's gross monthly
25 compensation at the time of occupational death

26 (1) to the employee's individual account under AS 39.35.730, without
27 deduction from the survivor's pension; and

28 (2) to the appropriate accounts and funds under AS 39.35.750.

29 * Sec. 30. AS 39.35.892(e) is amended to read:

30 (e) On the date the employee would have first been eligible to qualify for
31 normal retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the

1 employee had survived [LIVED], the retirement benefit shall be determined under the
2 provisions of AS 39.35.820 - 39.35.840, 39.35.870, and 39.35.880. An employee who
3 died and whose survivors receive occupational death benefits under this section shall
4 be considered to have retired directly from the plan on the date the [NORMAL
5 RETIREMENT OF THE] employee would have first been eligible to qualify for
6 normal retirement [OCCURRED] if the employee had survived. The period during
7 which the employee was eligible for a disability benefit and the period during
8 which a pension benefit is paid to a surviving spouse or surviving dependent child
9 under this subsection each constitute membership service for the purpose of
10 determining vesting in employer contributions under AS 39.35.790(b) and
11 eligibility for retirement and medical benefits under this chapter and
12 AS 39.30.300 - 39.30.495 [LIVED].

13 * Sec. 31. AS 39.35.940(d) is amended to read:

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

21 * Sec. 32. AS 39.35.940(h) is amended to read:

22 (h) An employee who is eligible to elect transfer to the defined
23 contribution plan must do so not later than 12 months after the employee's
24 employer notifies the administrator that the employee's employer consents to
25 transfers of its employees under (i) of this section. The election to participate in the
26 defined contribution retirement plan must be made in writing on forms and in the
27 manner prescribed by the administrator. Before accepting an election to participate in
28 the defined contribution retirement plan, the administrator must provide the employee
29 planning on making an election to participate in the defined contribution retirement
30 plan with information, including calculations to illustrate the effect of moving the
31 employee's retirement plan from the defined benefit retirement plan to the defined

1 contribution retirement plan as well as other information to clearly inform the
2 employee of the potential consequences of the employee's election. An election made
3 under this subsection to participate in the defined contribution retirement plan is
4 irrevocable. Upon making the election, the participant shall be enrolled as a member
5 of the defined contribution retirement plan, the member's participation in the plan shall
6 be governed by the provisions of AS 39.35.700 - 39.35.990, and the member's
7 participation in the defined benefit retirement plan under AS 39.35.115 shall
8 terminate. The participant's enrollment in the defined contribution retirement plan
9 shall be effective the first day of the month after the administrator receives the
10 completed enrollment forms. An election made by an eligible member who is married
11 is not effective unless the election is signed by the individual's spouse.

12 * Sec. 33. AS 39.35.940(i) is amended to read:

13 (i) A member may make an election under this section only if the member's
14 employer participates in both the defined benefit retirement plan and the defined
15 contribution retirement plan and consents to transfers under this section. The employer
16 shall notify the administrator if the employer consents to allowing the employer's
17 members to choose to transfer from the defined benefit retirement plan to the defined
18 contribution retirement plan under this section. A period during which the
19 employer's members may choose to transfer commences on the first day of the
20 month following the administrator's receipt of notice under (b) of this section and
21 continues for 12 months unless the employer elects in the final month to extend
22 the period for another 12 months. An employer's notice to allow transfers is
23 irrevocable and applicable to all eligible employees of the employer.

24 * Sec. 34. AS 39.45 is amended by adding a new section to read:

25 Sec. 39.45.055. Appeals. A final decision made under AS 39.45.010 -
26 39.45.060 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
27 delegated to the administrative law judge and shall issue within 180 days after the date
28 the administrator receives the appeal, unless the administrative law judge and all
29 parties agree to another time.

30 * Sec. 35. AS 44.64.030(a) is amended by adding new paragraphs to read:

31 (36) AS 39.30.165 (supplemental benefits system);

1 (37) AS 39.30.335 (teachers' and public employees' health
2 reimbursement arrangement plan);

3 (38) AS 39.35.522 (waiver of adjustments under public employees'
4 defined benefit plan)

5 (39) AS 39.45.055 (public employees' deferred compensation
6 program).

7 * Sec. 36. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND
10 DEATH BENEFITS IN THE TEACHERS' DEFINED CONTRIBUTION RETIREMENT
11 PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT. Notwithstanding
12 AS 14.25.350(e), for the first fiscal year in which the teachers' defined contribution retirement
13 plan is in effect, the employer contribution to full funding of the cost of providing
14 occupational disability and occupational death benefits under AS 14.25.485 and 14.25.487
15 shall be equal to 0.22 percent of the amount of compensation paid to all teachers who work
16 for the employer in that year and are members of the plan.

17 * Sec. 37. AS 14.25.045, 14.25.570, 14.25.580; and AS 39.35.050(a) are repealed.

18 * Sec. 38. This Act takes effect July 1, 2006.

24-LS1685Y
Wayne
3/1/06

CS FOR HOUSE BILL NO. 475()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE SEATON

A BILL
FOR AN ACT ENTITLED

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

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

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

4 * Section 1. AS 14.25.006 is amended to read:

5 **Sec. 14.25.006. Appeals.** An employer, member, annuitant, or beneficiary may
6 appeal a decision made by the administrator to the office of administrative hearings
7 established under AS 44.64. The final decision under AS 44.64 is delegated to the
8 administrative law judge and shall issue within 180 days after the date the
9 administrator receives the appeal, unless the administrative law judge and all
10 parties agree to another time. An aggrieved party may appeal a final decision to the
11 superior court.

12 * Sec. 2. AS 14.25.070 is amended by adding a new subsection to read:

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

16 * Sec. 3. AS 14.25.125(c) is amended to read:

17 (c) Membership service for which contributions were refunded is not
18 creditable under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE
19 BEEN REPAYED. FOR PURPOSES OF THIS SECTION, A MEMBER OR FORMER
20 MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS PLAN IN
21 ORDER TO REPAY REFUNDED CONTRIBUTIONS. COMPOUND INTEREST
22 AT THE RATE PRESCRIBED BY REGULATION MUST BE ADDED TO THE
23 REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE REFUND TO
24 THE DATE OF REPAYMENT].

25 * Sec. 4. AS 14.25.350, as enacted by sec. 35, ch. 9, FSSLA 2005, is amended by adding a
26 new subsection to read:

27 (e) An employer shall make annual contributions to a trust account in the plan
28 in an amount determined by the board to be actuarially required to fully fund the cost
29 of providing occupational disability and occupational death benefits under
30 AS 14.25.485 and 14.25.487.

1 * Sec. 5. AS 14.25.470(g), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

12 * Sec. 6. AS 14.25.485(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

13 (c) If the disabled member becomes ineligible to receive occupational
14 disability benefits before the normal retirement date, the disabled member shall then
15 be entitled to receive retirement benefits if the member would have been eligible for
16 the benefit had employment continued during the period of disability. The period of
17 disability constitutes membership service for the purposes of [IN REGARD TO]
18 determining vesting in employer contributions under AS 14.25.390(b) and
19 eligibility for retirement and medical benefits under this chapter and AS 39.30.300
20 - 39.30.495.

21 * Sec. 7. AS 14.25.485(d), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

22 (d) The monthly amount of an occupational disability benefit is 40 percent of
23 the disabled member's gross monthly compensation at the time of termination due to
24 disability. A member is not entitled to elect distributions from the member's
25 individual contribution account under AS 14.25.410 while the member is
26 receiving disability benefits under this section. While a member is receiving
27 disability benefits, based on the disabled member's gross monthly compensation at the
28 time of termination due to disability, the employer shall make contributions to the

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

31 (2) appropriate accounts and funds on behalf of the member under

1 AS 14.25.350.

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

3 (g) A disabled member's occupational disability benefit terminates the last
4 day of the month following the date [WHEN] the disabled member first qualifies
5 [ATTAINS ELIGIBILITY] for normal retirement. At that time, the member's
6 retirement benefit shall be determined under the provisions of AS 14.25.420 -
7 14.25.440, 14.25.470, and 14.25.480. A member whose occupational disability
8 benefit terminates under this subsection [RECEIVING DISABILITY BENEFITS
9 UP UNTIL ELIGIBILITY FOR RETIREMENT] shall be considered to have retired
10 directly from the plan.

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

12 (i) Upon the death of a disabled member who is receiving or is entitled to
13 receive an occupational disability benefit, the administrator shall pay the surviving
14 spouse a surviving spouse's pension, equal to 40 percent of the member's monthly
15 compensation at the termination of employment because of occupational disability. If
16 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
17 parts to the dependent children of the member. The first payment of the surviving
18 spouse's pension or of a dependent child's pension shall accrue from the first day of
19 the month following the member's death and is payable the last day of the month. The
20 last payment shall be made the last day of [FOR] the last month in which there is an
21 eligible surviving spouse or dependent child, or the last day of the month following
22 the earliest date the member would have first qualified for normal retirement if
23 the member had survived, whichever day comes sooner. A retirement benefit
24 shall be determined under the provisions of AS 14.25.420 - 14.25.440, 14.25.470,
25 and 14.25.480 based on [. ON] the date the member would have first qualified for
26 normal retirement [OF THE MEMBER WOULD HAVE OCCURRED] if the member
27 had survived. For the purpose of determining eligibility of a survivor who is
28 receiving a benefit under this subsection for medical benefits under AS 14.25.470
29 - 14.25.480, a [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED
30 UNDER THE PROVISIONS OF AS 14.25.420 - 14.25.440, 14.25.470, AND
31 14.25.480. A] member who died while receiving disability benefits shall be considered

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

9 * Sec. 10. AS 14.25.487(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

17 * Sec. 11. AS 14.25.487(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

27 (1) to the member's individual account under AS 14.25.340, without
28 deduction from the survivor's pension; and

29 (2) to the appropriate accounts and funds on behalf of the member
30 under AS 14.25.350.

31 * Sec. 12. AS 14.25.487(e), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

1 (e) On the date the member would have first qualified for normal retirement
2 [OF THE MEMBER WOULD HAVE OCCURRED] if the member had survived
3 [LIVED], the retirement benefit shall be determined under the provisions of
4 AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. A member who died and whose
5 survivors receive occupational death benefits under this section shall be considered to
6 have retired directly from the plan on the date the [NORMAL RETIREMENT OF
7 THE] member would have first qualified for normal retirement [OCCURRED] if
8 the member had survived. The period of time during which a survivor's pension is
9 paid under this section constitutes membership service for the purposes of
10 determining vesting in employer contributions under AS 14.25.390(b) and
11 eligibility for retirement and medical benefits under this chapter and
12 AS 39.30.300 - 39.30.495 [LIVED].

13 * Sec. 13. AS 14.25.540(d), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

22 * Sec. 14. AS 14.25.540(h), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

23 (h) A member who is eligible to elect transfer to the defined contribution
24 plan must make the election not later than 12 months after the member's
25 employer notifies the administrator that the member's employer consents to
26 transfers of its members under (i) of this section. The election to participate in the
27 defined contribution retirement plan must be made in writing on forms and in the
28 manner prescribed by the administrator. Before accepting an election to participate in
29 the defined contribution retirement plan, the administrator must provide the employee
30 planning on making an election to participate in the defined contribution retirement
31 plan with information, including calculations to illustrate the effect of moving the

1 employee's retirement plan from the defined benefit retirement plan to the defined
2 contribution retirement plan as well as other information to clearly inform the
3 employee of the potential consequences of the employee's election. An election made
4 under this subsection to participate in the defined contribution retirement plan is
5 irrevocable. Upon making the election, the participant shall be enrolled as a member
6 of the defined contribution retirement plan, the member's participation in the plan shall
7 be governed by the provisions of AS 14.25.310 - 14.25.590, and the member's
8 participation in the defined benefit retirement plan under AS 14.25.009 - 14.25.220
9 shall terminate. The participant's enrollment in the defined contribution retirement
10 plan shall be effective the first day of the month after the administrator receives the
11 completed enrollment forms. An election made by an eligible member who is married
12 is not effective unless the election is signed by the individual's spouse.

13 * Sec. 15. AS 14.25.540(i), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

14 (i) A member may make an election under this section only if the member's
15 employer participates in both the defined benefit retirement plan and the defined
16 contribution retirement plan and consents to transfers under this section. The employer
17 shall notify the administrator if the employer consents to allowing the employer's
18 members to choose to transfer from the defined benefit retirement plan to the defined
19 contribution retirement plan under this section. The initial period during which the
20 employer's members may choose to transfer commences on the first day of the
21 month following the administrator's receipt of notice under this subsection and
22 continues for 12 months. An employer may consent to a second period of 12
23 months during which the employer's members may choose to transfer from the
24 defined benefit retirement plan to the defined contribution retirement plan under
25 this section. The second period commences on the first day of the month
26 following the administrator's receipt of notice under this subsection and
27 continues for 12 months. An employer's notice to allow transfers is irrevocable and
28 applicable to all eligible employees of the employer.

29 * Sec. 16. AS 14.25.540(j), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended by adding
30 a new paragraph to read:

31 (3) "membership service" has the meaning given in AS 14.25.220 and

1 does not include any service for which reinstatement indebtedness has not been fully
2 paid.

3 * Sec. 17. AS 39.30.160(a) is amended to read:

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

- 9 (1) supplemental health benefits;
- 10 (2) supplemental death benefits;
- 11 (3) supplemental disability benefits; and
- 12 (4) supplemental dependent care benefits.

13 * Sec. 18. AS 39.30.160(e) is amended to read:

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

17 * Sec. 19. AS 39.30 is amended by adding a new section to read:

18 **Sec. 39.30.165. Appeals.** A final decision made under AS 39.30.150 -
19 39.30.180 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
20 delegated to the administrative law judge and shall issue within 180 days after the date
21 the administrator receives the appeal, unless the administrative law judge and all
22 parties agree to another time.

23 * Sec. 20. AS 39.30 is amended by adding a new section to read:

24 **Sec. 39.30.335. Appeals.** A final decision made under AS 39.30.300 -
25 39.30.495 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
26 delegated to the administrative law judge and shall issue within 180 days after the date
27 the administrator receives the appeal, unless the administrative law judge and all
28 parties agree to another time.

29 * Sec. 21. AS 39.30.370, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

30 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,
31 an employer shall contribute to the teachers' and public employees' retiree health

1 reimbursement arrangement plan trust fund an amount equal to three percent of the
2 average annual compensation of all employees of employers in the plan
3 [EMPLOYER'S AVERAGE ANNUAL EMPLOYEE COMPENSATION]. The
4 administrator shall maintain a record for each member to account for employer
5 contributions on behalf of that member. The board shall establish by regulation the
6 rate of interest to be applied annually to the amount in a member's individual account.

7 * Sec. 22. AS 39.30.380, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

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

18 * Sec. 23. AS 39.30.390, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

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

26 * Sec. 24. AS 39.35.006 is amended to read:

27 **Sec. 39.35.006. Appeals.** An employer, member, annuitant, or beneficiary may
28 appeal a decision made by the administrator to the office of administrative hearings
29 established under AS 44.64. The final decision under AS 44.64 is delegated to the
30 administrative law judge and shall issue within 180 days after the date the
31 administrator receives the appeal, unless the administrative law judge and all

1 parties agree to another time. An aggrieved party may appeal a final decision to the
2 superior court.

3 * Sec. 25. AS 39.35.270 is amended by adding a new subsection to read:

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

7 * Sec. 26. AS 39.35.375(a) is amended to read:

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

20 * Sec. 27. AS 39.35.35(c) is amended to read:

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

29 * Sec. 28. AS 39.35.522(d) is amended to read:

30 (d) A ruling of the [THE] commissioner of administration denying a waiver
31 under this section may be appealed under AS 44.64. The administrative law

1 judge may reverse the ruling of the commissioner and may impose equitable
2 conditions on the granting of a waiver [WHICH IT CONSIDERS EQUITABLE].
3 These conditions may include requiring the member or beneficiary to make additional
4 contributions to the plan.

5 * Sec. 29. AS 39.35.680(3) is amended to read:

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

9 * Sec. 30. AS 39.35.750(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

10 (e) An employer shall make annual contributions to a trust account in the
11 plan in an amount determined by the board to be actuarially required to fully fund the
12 cost of providing occupational disability and occupational death benefits under
13 AS 39.35.890 and 39.35.892 and retirement benefits elected by disabled peace
14 officers and fire fighters under AS 39.35.890(h)(2). The contribution required under
15 this subsection for peace officers and fire fighters and the contribution required under
16 this subsection for other employees shall be separately calculated based on the
17 actuarially calculated costs for each group of employees.

18 * Sec. 31. AS 39.35.870(g), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

29 * Sec. 32. AS 39.35.890(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

30 (c) If the disabled employee becomes ineligible to receive occupational
31 disability benefits before the normal retirement date, the disabled employee shall then

1 be entitled to receive retirement benefits if the employee would have been eligible for
2 the benefit had employment continued during the period of disability. The period of
3 disability constitutes membership service for the purposes of [IN REGARD TO]
4 determining vesting in employer contributions under AS 39.35.790(b) and
5 eligibility for retirement and medical benefits under this chapter and AS 39.30.300
6 - 39.30.495.

7 * Sec. 33. AS 39.35.890(d), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

8 (d) The monthly amount of an occupational disability benefit is 40 percent of
9 the disabled employee's gross monthly compensation at the time of termination due to
10 disability. An employee is not entitled to elect distributions from the employee's
11 individual contribution account under AS 39.35.810 while the employee is
12 receiving disability benefits under this section. While an employee is receiving
13 disability benefits, based on the disabled employee's gross monthly compensation at
14 the time of termination due to disability, the employer shall make contributions

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

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

18 * Sec. 34. AS 39.35.890(g), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

19 (g) A disabled employee's occupational disability benefit terminates the last
20 day of the month [WHEN] the disabled employee first qualifies [ATTAINS
21 ELIGIBILITY] for normal retirement. At that time, the employee's retirement benefit
22 shall be determined under the provisions of AS 39.35.820 - 39.35.840, 39.35.870, and
23 39.35.880. An employee whose occupational disability benefit terminates under
24 this subsection [RECEIVING DISABILITY BENEFITS UP UNTIL ELIGIBILITY
25 FOR RETIREMENT] shall be considered to have retired directly from the plan.

26 * Sec. 35. AS 39.35.890(h), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

31 (1) employee's retirement benefit calculated under the provisions of

1 AS 39.35.820 - 39.35.840; or

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

11 * Sec. 36. AS 39.35.890(k), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

12 (k) Upon the death of a disabled employee who is receiving or is entitled to
13 receive an occupational disability benefit, the administrator shall pay the surviving
14 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly
15 compensation at the termination of employment because of occupational disability. If
16 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
17 parts to the dependent children of the employee. The first payment of the surviving
18 spouse's pension or of a dependent child's pension shall accrue from the first day of
19 the month following the employee's death and is payable the last day of the month.
20 The last payment shall be made the last day of [FOR] the last month in which there is
21 an eligible surviving spouse or dependent child, or the last day of the month
22 following the earliest date the employee would have first qualified for normal
23 retirement if the employee had survived, whichever day comes sooner. A
24 retirement benefit shall be determined under the provisions of AS 39.35.820 -
25 39.35.840, 39.35.870, and 39.35.880 based on [. ON] the date the employee would
26 have first qualified for normal retirement [OF THE EMPLOYEE WOULD HAVE
27 OCCURRED] if the employee had survived. For the purpose of determining
28 eligibility of an employee's survivor who is receiving a benefit under this
29 subsection for medical benefits under AS 39.35.870 - 39.35.880, an employee
30 [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE
31 PROVISIONS OF AS 39.35.820 - 39.35.840, 39.35.870, AND 39.35.880. AN

1 EMPLOYEE] who died while receiving disability benefits shall be considered to have
2 retired directly from the plan on the date the employee would have first qualified for
3 normal retirement if the employee had survived. The period during which the
4 employee was eligible for a disability benefit and the period during which a
5 survivor's pension is paid to a survivor under this subsection each constitute
6 membership service for the purposes of determining vesting in employer
7 contributions under AS 39.35.790(b) and eligibility for retirement and medical
8 benefits under this chapter and AS 39.30.300 - 39.30.495 [NORMAL
9 RETIREMENT OF THE EMPLOYEE WOULD HAVE OCCURRED IF THE
10 EMPLOYEE HAD LIVED].

11 * Sec. 37. AS 39.35.892(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

20 * Sec. 38. AS 39.35.892(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

21 (c) The monthly survivor's pension in (b) of this section for survivors of
22 employees who were not peace officers or fire fighters is 40 percent of the employee's
23 monthly compensation in the month in which the employee dies. The monthly
24 survivor's pension in (b) of this section for survivors of employees who were peace
25 officers or fire fighters is 50 percent of the monthly compensation in the month in
26 which the employee dies. While the monthly survivor's pension is being paid, the
27 survivor is not entitled to elect distributions from the employee's individual
28 contribution account under AS 39.35.810, except as required by AS 39.35.840.
29 While the monthly survivor's pension is being paid, the employer shall make
30 contributions on behalf of the employee's surviving spouse and employee's
31 surviving dependent children [BENEFICIARIES] based on the deceased employee's

1 gross monthly compensation at the time of occupational death

2 (1) to the employee's individual account under AS 39.35.730, without
3 deduction from the survivor's pension; and

4 (2) to the appropriate accounts and funds under AS 39.35.750.

5 * Sec. 39. AS 39.35.892(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

6 (e) On the date the employee would have first qualified for normal
7 retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the employee
8 had survived [LIVED], the retirement benefit shall be determined under the
9 provisions of AS 39.35.820 - 39.35.840, 39.35.870, and 39.35.880. An employee who
10 died and whose survivors receive occupational death benefits under this section shall
11 be considered to have retired directly from the plan on the date the [NORMAL
12 RETIREMENT OF THE] employee would have first qualified for normal
13 retirement [OCCURRED] if the employee had survived. The period of time during
14 which a survivor's pension is paid under this section constitutes membership
15 service for the purposes of determining vesting in employer contributions under
16 AS 39.35.790(b) and eligibility for retirement and medical benefits under this
17 chapter and AS 39.30.300 - 39.30.495 [LIVED].

18 * Sec. 40. AS 39.35.940(d), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

26 * Sec. 41. AS 39.35.940(h), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

27 (h) An employee who is eligible to elect transfer to the defined
28 contribution plan must make the election not later than 12 months after the
29 employee's employer notifies the administrator that the employee's employer
30 consents to transfers of its employees under (i) of this section. The election to
31 participate in the defined contribution retirement plan must be made in writing on

1 forms and in the manner prescribed by the administrator. Before accepting an election
2 to participate in the defined contribution retirement plan, the administrator must
3 provide the employee planning on making an election to participate in the defined
4 contribution retirement plan with information, including calculations to illustrate the
5 effect of moving the employee's retirement plan from the defined benefit retirement
6 plan to the defined contribution retirement plan as well as other information to clearly
7 inform the employee of the potential consequences of the employee's election. An
8 election made under this subsection to participate in the defined contribution
9 retirement plan is irrevocable. Upon making the election, the participant shall be
10 enrolled as a member of the defined contribution retirement plan, the member's
11 participation in the plan shall be governed by the provisions of AS 39.35.700 -
12 39.35.990, and the member's participation in the defined benefit retirement plan under
13 AS 39.35.115 shall terminate. The participant's enrollment in the defined contribution
14 retirement plan shall be effective the first day of the month after the administrator
15 receives the completed enrollment forms. An election made by an eligible member
16 who is married is not effective unless the election is signed by the individual's spouse.

17 * Sec. 42. AS 39.35.940(i), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

1 applicable to all eligible employees of the employer.

2 * Sec. 43. AS 39.35.940(j), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended by
3 adding a new paragraph to read:

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

7 * Sec. 44. AS 39.35.990(16), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to
8 read:

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

16 * Sec. 45. AS 39.35.990(20), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to
17 read:

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

24 * Sec. 46. AS 39.45 is amended by adding a new section to read:

25 Sec. 39.45.055. Appeals. A final decision made under AS 39.45.010 -
26 39.45.060 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
27 delegated to the administrative law judge and shall issue within 180 days after the date
28 the administrator receives the appeal, unless the administrative law judge and all
29 parties agree to another time.

30 * Sec. 47. AS 44.64.030(a) is amended by adding new paragraphs to read:

31 (36) AS 14.25.175 (waiver of adjustments under teachers' defined

1 benefit plan);

2 (37) AS 39.30.165 (supplemental benefits system);

3 (38) AS 39.30.335 (teachers' and public employees' health
4 reimbursement arrangement plan);

5 (39) AS 39.35.522 (waiver of adjustments under public employees'
6 defined benefit plan)

7 (40) AS 39.45.055 (public employees' deferred compensation
8 program).

9 * Sec. 48. AS 14.25.045, 14.25.070(b), 14.25.570; AS 39.35.050(a), and 39.35.270(b) are
10 repealed.

11 * Sec. 49. AS 39.35.375(f) is repealed July 1, 2010.

12 * Sec. 50. The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND
15 OCCUPATIONAL DEATH BENEFITS IN THE TEACHERS' DEFINED CONTRIBUTION
16 RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT.
17 Notwithstanding AS 14.25.350(e), added by sec. 4 of this Act, for the first fiscal year in which
18 the teachers' defined contribution retirement plan is in effect, the employer contribution to
19 fully fund the cost of providing occupational disability and occupational death benefits under
20 AS 14.25.485 and 14.25.487 shall be equal to 0.22 percent of the amount of compensation
21 paid to all teachers who work for the employer in that year and are members of the plan.

22 * Sec. 51. Sections 2 and 25 of this Act take effect July 1, 2008.

23 * Sec. 52. Sections 3, 26, and 27 of this Act take effect on July 1, 2010.

24 * Sec. 53. Except as provided in secs. 51 and 52 of this Act, this Act takes effect July 1,
25 2006.

AMENDMENT # / Passes

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 5, following line 8:

Insert new bill sections to read:

* **Sec. 10.** AS 14.25. is amended by adding new sections to read:

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

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

(c) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

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

Sec. AS 14.25.488. Survivor's pension adjustment. (a) Once each year, the administrator shall increase payments to persons age 60 or older receiving a survivor's pension under AS 14.25.485(i) or AS 14.25.487(c) and to persons who have received a survivor's pension under AS 14.25.485(i) or AS 14.25.487(c) for at least 8 years who are not otherwise eligible for an increase under this section.

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

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

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

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

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

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

Renumber the following bill sections accordingly.

AMENDMENT # 2 Pass

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 14, following line 10:

Insert new bill sections to read:

* **Sec. 37.** AS 39.35 is amended by adding new sections to read:

Sec. AS 39.35.391. Disability benefit and disabled peace officer or fire fighter retirement benefit adjustment. (a) Once each year, the administrator shall increase disability benefits and retirement benefits elected by disabled peace officers or firefighters under AS 39.35.890(h)(2). The amount of the increase is a percentage of the current disability benefit or retirement benefit equal to the lesser of 75 percent of the increase of the cost of living in the preceding calendar year or nine percent.

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

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

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

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

Sec. AS 39.35.893. Survivor's pension adjustment. (a) Once each year, the administrator shall increase payments to persons age 60 or older receiving a survivor's pension under AS 39.35.890(k) or AS 39.35.892(c) and to persons who have received a survivor's pension under AS 39.35.890(k) or AS 39.35.892(c) for at least 5 years who are not otherwise eligible for an increase under this section.

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

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

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

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

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

Sec. AS 39.35.894. Premiums for retiree major medical insurance coverage upon termination of disability benefits or survivor's pension. The premium for retiree major medical insurance coverage payable by an employee whose disability benefit is terminated under AS 39.35.890(g) or by an eligible survivor whose survivor pension is terminated under AS 39.35.890(k) or AS 39.35.892(e) when the employee would have been eligible for normal retirement if the employee had survived shall be determined under AS 39.35.880(g)(2) as if the employee or survivor were eligible for Medicare.

Renumber the following bill sections accordingly.

AMENDMENT #3 Passed

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 10, following line 2:

Insert new bill sections to read:

**** Sec. 25.** AS 39.35.250(a) is amended to read:

(a) An employer shall make contributions to the plan in amounts determined in accordance with this section. For the purposes of this section, the past service date for each employer is the entry date of the employer or December 31, 1972, whichever is later. After December 31, 1972, if amendments to AS 39.35.095 - 39.35.680 are enacted that substantially affect benefits accrued before the effective date of the amendment, the past service date will be changed to December 31 of the year immediately preceding that in which the amendment is enacted. The contribution rate is the sum of the consolidated employer normal cost rate and the past service rate as certified by the board.

*** Sec. 26.** AS 39.35.250(b) is amended to read:

(b) In (a) of this section, "consolidated employer normal cost rate" means the percentage of compensation of all active employees in the plan which, if paid over the period of [THEIR] credited service of active employees in the plan after the [THEIR] past service date and when combined with all employee contributions to the plan, is sufficient to provide the benefits earned after such past service dates. This percentage is [UNIFORMLY] determined at the plan level for all employers and is applicable to each employer.

* Sec. 27. AS 39.35.250(c) is amended to read:

(c) In (a) of this section, "past service rate" means the percentage of compensation of all active employees in the system [PLAN] necessary to provide the annual amount required to amortize the unfunded obligations of the employer for benefits earned by the employer's members in the plan before the [EMPLOYER'S PAST SERVICE DATE] date of the last actuarial valuation over a period not to exceed [40 YEARS] the maximum allowed by the governmental accounting standards board. [THE PERIOD OF AMORTIZATION BEGINS AT THE PAST SERVICE DATE OF EACH EMPLOYER.] The percentage is separately determined for each employer.

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

(a) The amount of each employer's contributions shall be determined by applying the [EMPLOYER'S CONTRIBUTION] consolidated employer normal cost rate [,AS CERTIFIED BY THE BOARD,] to the total compensation paid to the employer's active employees of the [EMPLOYER] plan and by applying the employer's past service rate to the total compensation paid to the employer's active employees in the system for each payroll period [AND BY], including any adjustments to contributions required by AS 39.35.520 (a). This amount shall be remitted by the employer to the administrator in accordance with AS 39.35.610."

Renumber the following bill sections accordingly.

Reason: The current statutes defining contributions by employers calculate the contribution rates as a percentage of the "compensation of all active employees in the plan." The "plan" is defined as the retirement plan established under AS 39.35.095-39.35.680, or the DB plan. This amendment allows for the normal cost rate to be applied to the payroll base of the employer's DB plan members and the past service rate to be applied to the payroll base of all the employer's members in the system, thus keeping employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

AMENDMENT # 4 *Passes*

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 2, following line 11:

Insert new bill sections to read:

**** Sec. 2.** AS 14.25.070(a) is amended to read:

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

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

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

* **Sec 4.** AS 14.25.070 is amended by adding a new section to read:

(d) In (a) of this section, "past service rate" means the percentage of compensation of all active members in the system necessary to provide the annual amount required to amortize the unfunded obligations of the employers for benefits earned by members in the plan before the date of the last actuarial valuation over a period not to exceed the maximum period allowed by the governmental accounting standards board. This percentage is uniformly determined for all employers and is applicable to each employer."

Renumber the following bill sections accordingly.

Reason: The statutes defining contributions by employers reference contributions to the "plan," and specify that the employer contribution rate will be applied to the salaries paid to "members." The "plan" is defined as the retirement plan established under AS 14.25.009-14.25.220, or the DB plan. A member in the DB plan is defined as "a person eligible to participate in the plan and who is covered by the plan....". This amendment allows for the normal cost rate to be applied to the payroll base of the employer's DB plan members and the past service rate to be applied to the payroll base of all the employer's members in the system, thus keeping employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

AMENDMENT #5 *Pass*

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 2, line 27, following "plan":

Insert: ", applied as a percentage of compensation paid to members in the plan from July 1 to the following June 30,"

Page 11, line 11, following "plan":

Insert: ", applied as a percentage of compensation paid to employees in the plan from July 1 to the following June 30,"

Page 18, following line 21:

Insert new bill section to read:

"Sec. 51. Sec. 134 of ch.9, FSSLA 2005, is amended to read:

Sec. 134. The uncodified law of the State of Alaska is amended by adding a new section to read:

EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND DEATH BENEFITS IN THE PUBLIC EMPLOYEES' DEFINED CONTRIBUTION RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT.

Notwithstanding AS 39.35.750(e), added by sec. 122 of this Act, for the first fiscal year in which the public employees' defined contribution retirement plan is in effect, the employer contribution to fully fund the cost of providing occupational disability and occupational death benefits under AS 39.35.890 and 39.35.892 shall be equal to

(1) 0.4 percent of the compensation for peace officers and fire fighters who are members in the plan; and

(2) 0.3 percent of the compensation for all other employees who are members in the plan."

Renumber the following bill sections accordingly.

CONCEPTUAL AMENDMENT # 6 *pas*

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 17, following line 15:

Insert new bill sections to read:

**** Sec. 45.** AS 39.35 is amended by adding new sections to read:

Sec. 39.35.957. Designation of eligible employees, agreement to contribute, and amendment of participation. (a) A political subdivision or public organization shall designate the departments, groups, or other classifications of employees eligible to participate in the plan, and shall agree to make contributions each year in the amounts required for members of the plan under AS 39.35.750.

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

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

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

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

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

(d) An employee whose coverage under the plan is terminated as a result of termination of an employer's participation under this section or amendment of the employer's agreement under AS 39.35.957(c) shall be considered fully vested in employer contributions under AS 39.35.790(b) and in the individual account established for the employee under AS 39.30.370. If the employee is later employed with a participating employer, the employee's membership service earned under the plan during employment with a terminated employer shall be credited for purposes of determining vesting in employer contributions under AS 39.35.790(b) and eligibility for retirement and medical benefits under this chapter and AS 39.30.300-39.35.495."

By Bruening

CONCEPTUAL AMENDMENT # 7
TO HB475 (STA) "y" version → FAILS 24.LS1356A

SENATE BILL NO. 293

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATOR ELTON

Introduced: 2/14/06
Referred: State Affairs, Finance

- Rm - No
- Gov - yes
- Grue - yes
- G.H. - No
- Elk - No
- Lyn - yes
- Sch - no

A BILL

FOR AN ACT ENTITLED

Change title as necessary

1 "An Act relating to the teachers' and public employees' retirement systems and creating
 2 defined contribution and health reimbursement plans for members of the teachers'
 3 retirement system and the public employees' retirement system who are first hired after
 4 July 1, 2008; providing for an effective date by amending the effective date section of
 5 sec. 148, ch. 9, FSSLA 2005~~x~~ and providing for an effective date."

6 ~~BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:~~

Add the following sections to the bill - insert in appropriate places

7 * Section 1. AS 14.25.009 is amended to read:
 8 Sec. 14.25.009. Applicability of AS 14.25.009 - 14.25.220. The provisions of
 9 AS 14.25.009 - 14.25.220 apply only to members first hired before July 1, 2008
 10 [2006].
 11 * Sec. 2. AS 14.25.012(c) is amended to read:
 12 (c) Employees first hired after June 30, 2008 [2006], are not eligible to
 13 participate in the plan established in AS 14.25.009 - 14.25.220.

1 * **Sec. 3.** AS 14.25.310 is amended to read:

2 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590.** The provisions of
3 AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or
4 after July 1, 2008 [2006], or to members who transfer into the defined contribution
5 plan under AS 14.25.540.

6 * **Sec. 4.** AS 14.25.320(b) is amended to read.

7 (b) The defined contribution retirement plan includes a plan in which savings
8 are accumulated in an individual account for the exclusive benefit of the member or
9 beneficiaries. The plan is established effective July 1, 2008 [2006], at which time
10 contributions by employers and members begin.

11 * **Sec. 5.** AS 14.25.330(a) is amended to read:

12 **Sec. 14.25.330. Membership.** (a) A teacher who first becomes a member on or
13 after July 1, 2008 [2006], shall participate in the plan as a member of the defined
14 contribution retirement plan.

15 * **Sec. 6.** AS 39.30.300 is amended to read:

16 **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**
17 **Health Reimbursement Arrangement Plan established.** The State of Alaska
18 Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan is
19 established for teachers who first become members of the defined contribution plan of
20 the teachers' retirement system under AS 14.25.310 - 14.25.590 on or after July 1,
21 2008 [2006], and employees of the state, political subdivisions of the state, and public
22 organizations of the state who first become members of the defined contribution plan
23 of the public employees' retirement system under AS 39.35.700 - 39.35.990 on or after
24 July 1, 2008 [2006].

25 * **Sec. 7.** AS 39.30.310(b) is amended to read:

26 (b) The plan becomes effective July 1, 2008 [2006], at which time
27 contributions by employers begin.

28 * **Sec. 8.** AS 39.35.095 is amended to read:

29 **Sec. 39.35.095. Applicability of AS 39.35.095 - 39.35.680.** The following
30 provisions of this chapter apply only to members first hired before July 1, 2008
31 [2006]: AS 39.35.095 - 39.35.680.

1 * **Sec. 9.** AS 39.35.700 is amended to read:

2 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990.** The provisions of
3 AS 39.35.700 - 39.35.990 apply only to members first hired on or after July 1, 2008
4 [2006], or to members who transfer into the defined contribution plan under
5 AS 39.35.940.

6 * **Sec. 10.** AS 39.35.710(b) is amended to read:

7 (b) The defined contribution retirement plan is a plan in which savings are
8 accumulated in an individual retirement account for the exclusive benefit of the
9 member or beneficiaries. The plan is established effective July 1, 2008 [2006], at
10 which time contributions by employers and members begin.

11 * **Sec. 11.** AS 39.35.720 is amended to read:

12 **Sec. 39.35.720. Membership.** An employee who becomes a member on or
13 after July 1, 2008 [2006], shall participate in the plan set out in AS 39.35.700 -
14 39.35.990.

15 * **Sec. 12.** AS 39.35.750(c) is amended to read:

16 (c) Notwithstanding (b) of this section, the employer contribution for retiree
17 major medical insurance for fiscal year 2009 [2007] shall be 1.75 percent of each
18 member's compensation from July 1 to the following June 30.

19 ***Sec. 11.** Section 148, ch. 9, FSSLA 2005, is amended to read:

20 Sec. 148. Sections 2, 8, 25, 40, 46, 61, 69, 80, 82, 122, and 134 of this Act take
21 effect July 1, 2008 [2006].

22 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **CONDITIONAL RETROACTIVITY.** If secs. 1 - 13 of this Act take effect after
25 July 1, 2006, secs. 1 - 13 of this Act are retroactive to July 1, 2006.

26 (~~* Sec. 14.~~ *These sections shall* This Act take effect immediately under AS 01.10.070(c).)

Consolidated Sectional Analysis for HB 475

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

Sec. 1, Sec. 19, Sec. 24, Sec. 28, Sec. 46, Sec. 47, Sec. 20

Change: Changes the time the OAH has to issue a decision on appeals from 120 to 180 days. Adds the Supplemental-benefit-annuity Plan (SBS), Health Reimbursement Arrangement (HRA) Plan, Deferred Compensation Plan, and waivers of adjustment under the PERS and TRS Defined Benefit (DB) plans to the jurisdiction of the OAH. Gives members the authority to appeal the administrator's decision to the OAH.

Reason: 120 days was not sufficient time to issue a decision on an appeal. SB 141 transferred appeals from the TRS and PERS boards to OAH. These changes are necessary to give all applicable appellants the authority to appeal to the OAH.

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

Sec. 2, Sec. 25, Sec. 48, Sec. 51

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

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

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

Sec. 3, Sec. 26, Sec. 27, Sec. 49, Sec. 52

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

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

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

4a. Funding death and disability benefits

Sec. 4, Sec. 30, Sec. 50 Amendment 5

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

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

4b. The structure of death and disability benefits

Sec. 6, Sec. 7, Sec. 8, Sec. 32, Sec. 33, Sec. 34, Sec. 35, Amendment 1, Amendment 2

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

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

4c. Survivor benefits

Sec. 9, sec. 10, Sec. 11, Sec. 36, Sec. 37, sec. 38, Sec. 39

Change: Clarifies that a survivor's benefit terminates when the beneficiary is no longer eligible or the deceased member would have reached normal retirement. A period spent receiving death benefits counts as membership service for vesting purposes. A survivor is not allowed to take money out of the deceased member's DC account while receiving survivor benefits.

5. Clarifies the eligibility requirements for medical benefits.

Sec. 5, Sec. 22, Sec. 23, Sec. 31

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

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

Sec. 13, Sec. 14, Sec. 15, Sec. 16, Sec. 40, Sec. 41, Sec. 42, Sec. 43

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

7. Clarifies the basis for calculating employer contribution rates

Amendment 3, Amendment 4

Change: Specifies that the past service cost will be applied to the employer's entire wage base.

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

8. Gives regulatory authority to the appropriate party

Sec. 17, Sec. 18

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

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

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

Sec. 21

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

Reason: Without this change there is discrimination in the plan and it would not qualify for IRS tax exempt status.

10. Definitions

Sec. 29, Sec. 45, Sec. 48

Change: Repeals duplicative section regarding the definition of administrator. Provides a clear definition of peace officer and fire fighter under the DC plan.

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

Sec. 48

Change: Repeals participation of NEA employees in TRS.

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

12. Establishes provisions for employer termination

Amendment

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

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

Committee Substitute for House Bill 475() Work Draft \Y

Sectional Analysis

Sec. 1 AS 14.25.006. Changes the statutory deadline for a decision by the Office of Administrative Hearings on TRS appeals from 120 days to 180 days.

Reason: This change is specific to appeals from decisions of the TRS administrator. Prior to SB 141, there were no statutory time limits for appeals and cases could take as long as 18 months to resolve. However, 120 days is simply insufficient time, especially in disability appeals which often involve complex evidentiary issues that must be developed on appeal, and in which scheduling of proceedings can revolve around the availability of medical witnesses.

Consequence: The office of administrative hearings may consider the statutory deadlines to be "directory" rather than "mandatory." However, because of the pressure to meet the deadlines, the consequence of not providing a longer time for issuance of a decision in TRS appeals is that cases may proceed without adequate development, with resulting impacts on TRS trust funds.

Related bill sections: Sec. 24, AS 39.35.006.

Sec. 2 AS 14.25.070(d). Establishes a floor on the employer contribution rate at no less than the normal cost rate, effective July 1, 2008.

Reason: This change, combined with the repeal of AS 14.25.070(b) and the effective date in Sec. 51, delays the effective date of the requirement of SB 141 that the employer contribution rate must be not less than the normal cost rate.

Related bill sections: Sec. 25, AS 39.35.270(d).

Sec. 3 AS 14.25.125(c). Effective July 1, 2010, removes the provision that allows members to repay refunded contributions for the purpose of obtaining a conditional service benefit.

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

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

Related bill sections: Sec. 27, AS 39.35.385(c).

Sec. 4 AS 14.25.350(e). Requires employers in the Teachers' Retirement System (TRS) to pay occupational disability and death benefits through contributions actuarially calculated, which will be deposited to a separate trust account.

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

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

Related bill sections: Sec. 30, AS 39.35.750(e).

Sec. 5 AS 14.25.470(g). Requires a person who originally chose not to participate in the retiree major medical plan, but who later chooses to participate, to provide a letter of continuous coverage or proof of insurability.

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

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

Related bill sections: Sec. 31, AS 39.35.870(g).

Sec. 6 AS 14.25.485(c). Clarifies that a period of disability benefits constitutes membership service in regard to determining vesting in employer contributions and related earnings, as well as eligibility for retirement and medical benefits including the Health Reimbursement Arrangement (HRA).

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

Related bill sections: Sec. 32, AS 39.35.890(c).

Sec. 7 AS 14.25.485(d). Clarifies that a member is not entitled to elect distributions from the member's individual account while receiving disability benefits.

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

Consequence: If this amendment is not enacted, a disabled member may be able to elect distributions from the member's individual account prior to becoming eligible for normal retirement. This could be regarded as "double dipping," and as thwarting the intent of the legislature to provide a retirement benefit once the disability benefit ends.

Related bill sections: Sec. 11, AS 14.25.487(c); Sec. 33, AS 39.35.890(d); Sec. 38 AS 39.35.892(c).

Sec. 8 AS 14.25.485(g). Clarifies the termination of disability benefits when a disabled member first qualifies for normal retirement.

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

Sec. 9 AS 14.25.485(i). Changes made to this subsection, which is related to the benefits for a survivor of a disabled member who dies while receiving disability benefits, mirror other changes being made to the disability and death statutes throughout this bill. The changes are: (1) clarifies the termination of a survivor's pension; and (2) clarifies that the period of disability benefits and the period of survivor benefits constitute membership service for vesting in employer contributions, and eligibility for medical benefits and the Health Reimbursement Arrangement.

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

Related bills sections: Sec. 6, AS 14.25.485(c); Sec. 10, AS 14.25.487(b); Sec. 12, 14.25.487(e); Sec. 36, AS 39.35.890(k).

Sec. 10 AS 14.25.487(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end of death benefits when a dependent child no longer meets the definition of dependent.

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

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

Related bill sections: Sec. 37, AS 39.35.892(b).

Sec. 11 AS 14.25.487(c). Clarifies that a survivor of a deceased member is not entitled to elect distributions from the member's individual account while receiving survivor benefits. Also clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries."

Reason: The death benefit provides an income, and eventually retirement benefits, for the family of a member who dies in the line of duty. An employer is required to make the same continuing contributions as required for disabled members. The purpose of these contributions would seem to be to accumulate funding for retirement benefits available to the deceased member's surviving spouse once the normal retirement date is reached and death benefits end. However, the beneficiaries of a deceased member are arguably immediately eligible for distributions from the individual contribution account under AS 14.25.410. Additionally, the beneficiaries may not solely be the surviving spouse and or dependent children. The situation is similar to that described under Sec. 7 [AS 14.25.485(d)].

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

Related bill sections: Sec. 7, AS 14.25.485(d); Sec. 38, AS 39.35.892(c).

Sec. 12 AS 14.25.487(e). Clarifies that the period of death benefits constitutes membership service for determining vesting in employer contributions and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: This appears to have been an omission in drafting because the disability benefits have the provision that a period of disability counts toward eligibility for retirement. It is also implied by the requirement for continuing employer contributions as well as the provisions of subsection (e) which reference the normal retirement date if the member had lived.

Related bill sections: Sec. 9, AS 14.25.485(i); Sec. 39, AS 39.35.892(e).

Sec. 13 AS 14.25.540(d). Clarifies that transferred membership from the defined benefit (DB) plan to the defined contribution retirement (DCR) plan will be applied to vesting in both the employer's matching contribution and subsequent contributions.

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

Related bill sections: Sec. 40, AS 39.35.940(d).

Sec. 14 AS 14.25.540(h). Provides a time limit -- 12 months from the date the employer consents to the conversion -- within which an eligible member must make the decision to transfer from the DB plan to the DCR plan.

Reason: An employer's decision to allow its employees to convert is irrevocable and employees have up until the day before they become vested in the Public Employees' Retirement System (PERS) or Teachers' Retirement System DB plans to convert. This pushes the last potential conversion date out conceivably 5 to 8 years (or longer, if terminated non-vested members return to work for a participating employer) depending on the plan and the employee's initial hire date.

Consequence: If the statute is not amended, employers that would otherwise benefit from consenting to transfers may make the decision not to consent because of annual budgeting uncertainty. Additionally, if there is no time limit for an employee's election to transfer, an employer that consents to transfers may incur greater liability for matching employee account balances that were earned largely while employees worked for other employers that elect not to consent to transfers.

Related bill sections: Sec. 15, AS 14.25.540(i); Sec. 41, AS 39.35.940(h).

Sec. 15 AS 14.25.540(i). An employer who makes a conversion election will have an initial 12-month window open to its eligible employees for transfer from the DB plan to the DCR plan. At the end of the initial 12-month period, the employer may consent to an additional 12-month period in which the employer's eligible employees may choose to transfer.

Reason: See explanation for amendment to AS 14.25.540(h), above. Allowing an employer to elect to consent to allowing transfers during an additional 12-month period provides the employer with the opportunity to achieve greater cost savings if the employer determines that consenting to additional transfers is beneficial.

Related bill sections: Sec. 14, AS 14.25.540(h); Sec. 42, AS 39.35.940(i).

Sec. 16 AS 14.25.540(j). Adds a definition of "membership service" for purposes of clarifying what service credit is eligible for transfer from the DB plan to the DCR plan and disallows years of service for which contributions have not been fully repaid; i.e., reinstatement of refunded contributions, or indebtedness.

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

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

Related bill sections: Sec. 43, AS 39.35.940(j).

Sec. X AS 14.25.580. Requires an employee of the Special Education Service Agency who participates in the TRS DCR plan to occupy a position that requires certification as a condition of employment.

Reason: The definition of "teacher" contained in AS 14.25.590(27) does not include "eligibility to possess" a teacher certificate. The statute requires that the teacher be employed in a position requiring possession of a State of Alaska teaching certificate. Currently, AS 14.25.580 contradicts this requirement and possibly opens TRS to SESA, PERS members holding teacher certificates, or who are eligible to hold a certificate, but who are not employed in positions requiring a certificate.

Consequence: Without amendment, AS 14.25.580 contradicts the TRS definition of "teacher."

Sec. 17 AS 39.30.160(a). Changes the authority for adopting regulations for the Supplemental Benefits System-Annuity Plan (SBS) program from the Alaska Retirement Management Board (ARMB) to the Commissioner of Administration.

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

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

Related bill sections: Sec. 18, AS 39.30.160(e).

Sec. 18 AS 39.30.160(e). Changes the reference from "board" to "commissioner".

Reason: This completes the change of authority for adopting regulations for the SBS program. See Sec. 17 above.

Related bill sections: Sec. 17, AS 39.30.160(a).

Sec. 19 AS 39.30.165. Adds a provision under the Supplemental Benefits System-Annuity Plan program for a member, annuitant, or beneficiary to appeal a decision of the administrator to the Office of Administrative Hearings (OAH).

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

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

Related bill sections: Sec. 20, AS 39.30.335; Sec. 46, AS 39.45.055.

Sec. 20 AS 39.30.335. Adds a provision under the Health Reimbursement Arrangement Plan for a member to appeal a decision of the administrator to the Office of Administrative Hearings.

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

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

Related bill sections: Sec. 19, AS 39.30.165; Sec. 46, AS 39.45.055.

Sec. 21 AS 39.30.370. Changes the employer contribution from an individual employer contribution amount to a uniform employer contribution amount for all participants of the Health Reimbursement Arrangement Plan.

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

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

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

Sec. 22 AS 39.30.380. Removes the conflict between eligibility for retirement and medical benefits and the statutes that define eligibility for the Health Reimbursement Arrangement Plan.

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

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

Sec. 23 AS 39.30.390. Changes eligibility for reimbursement from the Health Reimbursement Arrangement to persons who meet the eligibility requirements for retirement and medical benefits under either PERS or TRS, rather than under both.

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

Sec. 24 AS 39.35.006. Changes the statutory deadline for a decision by the Office of Administrative Hearings on PERS appeals from 120 days to 180 days.

Reason: This change is specific to appeals from decisions of the PERS administrator. Prior to SB 141, there were no statutory time limits for appeals and cases could take as long as 18 months to resolve. However, 120 days is simply insufficient time, especially in disability appeals which often involve complex evidentiary issues that must be developed on appeal, and in which scheduling of proceedings can revolve around the availability of medical witnesses.

Consequence: The office of administrative hearings may consider the statutory deadlines to be "directory" rather than "mandatory." However, because of the pressure to meet the deadlines, the consequence of not providing a longer time for issuance of a decision in PERS appeals is that cases may proceed without adequate development, with resulting impacts on PERS trust funds.

Related bill sections: Sec. 1, AS 14.25.006.

Sec. 25 AS 39.35.270(d). This change, combined with the repeal of AS 39.35.270(b) and the effective date in Sec. 51, delays the effective date of the requirement of SB 141 that the employer contribution rate must be not less than the normal cost rate.

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

Consequence: If this amendment and Sec. 48 are not enacted, 24 currently active PERS employers will pay an increased contribution rate in FY 2006.

Related bill sections: Sec. 2, AS 14.25.070(d).

Sec. 26 AS 39.35.375(a). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a public service benefit.

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

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

Related bill sections: Sec. 49, AS 39.35.375(f).

Sec. 27 AS 39.35.385(c). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a conditional service benefit.

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

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

Related bill sections: Sec. 3, AS 14.25.125(c).

Sec. 28 AS 39.35.522(d). Adds a provision for appeal to the Office of Administrative Hearings of the Commissioner's decisions on waiver requests under PERS.

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

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