

ALASKA LEGISLATION OFFICE FILES, 2000-2008 8072

11685 HOUSE STATE AFFAIRS

Sec. 29 AS 39.35.680(3). Incorporates the reference to the new administrator section AS 39.35.003 into the definition of "administrator" under the PERS DB plan.

Reason: AS 39.35.059(a) is repealed in section 48 of the bill. This is a duplicative section regarding the administrator that was replaced with AS 39.35.003 in SB 141.

Sec. 30 AS 39.35.750(e). Adds a fund source in statute to pay for the monthly pension that may be elected by a disabled peace officer or fire fighter upon eligibility for normal retirement. Clarifies that the employer contributions for the defined benefits under this subsection (occupational disability, occupational death, and disabled peace officer/fire fighter retirement benefits) will be deposited to a separate trust account.

Reason: The legislature specified that a monthly pension benefit calculated under AS 39.35.370(c) elected by a disabled peace officer or fire fighter would *not* be paid out of the PERS defined benefit trust (AS 39.35.890(h)(2)); however, the legislature did not specify a funding source for those benefits. The "trust account" is new language to clarify these employer contributions are treated differently and kept separate from the contributions to the plan's individual member accounts. This language is also present in new subsection (e) of AS 14.25.350.

Consequence: The consequence of not enacting this amendment is that there will be no funding source from which to pay retirement benefits for disabled peace officers and fire fighters who elect to have their retirement benefits calculated under AS 39.35.370(c) once the normal retirement date is reached and disability benefits end.

Related bill sections: Sec. 4, AS 14.25.350(e); Sec. 35, AS 39.35.890(h).

Sec. 31 AS 39.35.870(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. 5, AS 14.25.470(g).

Sec. 32 AS 39.35.890(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.

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. 6, AS 14.25.485(c).

Sec. 33 AS 39.35.890(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 39.35.810. 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. 7, AS 14.25.485(d); Sec. 11, AS 14.25.487(c); Sec. 38, AS 39.35.892(c).

Sec. 34 AS 39.35.890(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. 35 AS 39.35.890(h). Specifies that the monthly pension benefit elected by a disabled peace officer or fire fighter under (2) of this subsection will be paid first from the member's individual account and then from the trust account established under AS 39.35.750(e). Also clarifies that a member who is a peace officer or fire fighter is not entitled to elect distributions from the member's individual account while receiving disability benefits.

Reason. This change is consistent with the method of payment applied under the current defined benefit plan. In the DB plan, the peace officer or fire fighter member who chooses the option to have a monthly benefit calculated under the provisions of the disability benefit is still receiving a normal retirement benefit. The employee contribution account is transferred to the Retirement Reserve account and benefits are paid from that account each month. The employee contribution account is drawn down first, then benefits are paid from the employer's contributions.

Consequence: The consequence of not enacting this amendment is that there will be an ambiguity in the statutes regarding the accounts used for payment of these benefits. See also Sec. 33, above.

Related bill sections: Sec. 33, AS 39.35.890(d).

Sec. 36 AS 39.35.890(k). 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. 9, AS 14.25.485(i); Sec. 32, AS 39.35.890(c); Sec. 37, AS 39.35.892(b); Sec. 39, AS 39.35.892(e).

Sec. 37 AS 39.35.892(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 39.35.890(k)], 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. 10, AS 14.25.487(b).

Sec. 38 AS 39.35.892(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 39.35.810. Additionally, the beneficiaries may not solely be the surviving spouse and or dependent children. The situation is similar to that described under Sec. 33 [AS 39.35.890(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. 11, AS 14.25.487(c); Sec. 33, AS 39.35.890(d).

Sec. 39 AS 39.35.892(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. 12, 14.25.487(e); Sec. 36, AS 39.35.890(k).

Sec. 40 AS 39.35.940(d). Clarifies that transferred membership from the DB plan to the 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 DC plan employer contributions may prevent members who would otherwise benefit from transferring from making the decision to transfer.

Related bill sections: Sec. 13, AS 14.25.540(d).

Sec. 41 AS 39.35.940(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 PERS or TRS 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. 14, AS 14.25.540(h); Sec. 42, AS 39.35.940(i).

Sec. 42 AS 39.35.940(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 39.35.940(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. 15, AS 14.25.540(i); Sec. 41, AS 39.35.940(h).

Sec. 43 AS 39.35.940(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. Also, there is no definition of "membership service" under the PERS DB statutes. This change clarifies the definition 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. 16, AS 14.25.540(j).

Sec. 44 AS 39.35.990(16). Clarifies that "member" and "employee" have the same meaning throughout the PERS DCR statutes and excludes instructors at the Department of Labor and Workforce Development (DLW&D) and the Department of Education and Early Development (DEED) in positions requiring a teacher certificate.

Reason: "Member" and "employee" are both used inconsistently throughout the PERS statutes. This change clarifies they are intended to be used interchangeably. Also, the DLWD is changing their position requirements for some of its vocational education positions to *not* require a teacher certificate.

Consequence: Without amendment, instructors at the DLW&D and DEED may be precluded from being members of PERS if they work in a position that does not require a teacher certificate.

Sec. 45 AS 39.35.990(20). Provides a clear definition of peace officer and fire under the DCR plan.

Reason: This is a technical change to clarify the job classes eligible for classification as a peace officer or fire fighter.

Consequence: Without amendment, this definition references back to the definition under AS 39.35.680(29) which contains the same job classes.

Sec. 46 AS 39.45.055. Adds a provision under the Deferred Compensation program 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. 20, AS 39.30.335.

Sec. 47 AS 44.64.030(a). Adds the Supplemental Benefit-Annuity Plan, Health Reimbursement Arrangement Plan, Deferred Compensation Plan, and waivers of adjustment under the PERS and TRS defined benefit plans to the jurisdiction of the Office of Administrative Hearings.

Reason: This is a required change for statutory authority of the appeals delegated under the above programs.

Related bill sections: Sec. 19, AS 39.30.165; Sec. 20, AS 39.30.335; Sec. 28, AS 39.35.522(d); Sec. 46, AS 39.45.055.

Sec. 48 AS 14.25.070(b) and AS 39.35.270(b). Repeals the requirement enacted in SB 141 that the employer contribution rate must not be less than the normal cost rate.

Reason: The statutes added by SB 141 were effective July 1, 2005. This section combines with sections 2, 25, and 51 of the bill to delay the effective date of the contribution rate "floor" to July 1, 2008.

Sec. 48 AS 14.25.045 and 14.25.570. Repeals participation of National Education Association (NEA) employees in the TRS.

Reason: Although NEA had been included by the legislature in the TRS DB plan in statute, NEA is a non-profit organization and they do not qualify for inclusion in the system. This error was acknowledged by the Division of Retirement and Benefits, the Department of Law, and the NEA in the early 1990's/late 1980's. In discussion with participating NEA management it was decided by the TRS Board that members participating at the time would be grandfathered and inclusion of new members would be discontinued (since then the last member has retired). Inclusion in the new plan resulted from duplication of existing statutes.

Sec. 48 AS 39.35.050(a). Repeals duplicative AS 39.35.050(a) which provides for the Commissioner of Administration to appoint an administrator.

Reason: Technical change. This statute was replaced by AS 39.35.003 in SB 141.

Sec. 49 AS 39.35.375(f). This subsection relates to reinstating service associated with refunded contributions for obtaining a public service benefit.

Reason: With the change to the public service benefit under AS 39.35.375(a) – see Sec. 26 - this subsection will have no applicable meaning beginning July 1, 2010.

Sec. 50 Uncodified law. Establishes an initial contribution rate for TRS employers to fund occupational disability and death benefits during the first fiscal year of the DCR plan (FY 2007).

Reason. The first valuation year in which employees will be enrolled in the DCR plan begins July 1, 2006. The ARMB will consider the contribution rate for this cost during the 2007 valuation, ending date June 30, 2006.

Consequence: If this section, in combination with Sec. 4 of this bill, is not enacted, there will be no funding source from which to pay TRS occupational disability and death benefits. If Sec. 1 is enacted but not this section, implementation of a cost rate for this benefit, and contributions to the plan, may be delayed until the ARMB can request a calculation by the actuary and approve a contribution rate.

Related bill sections: Sec. 4, AS 14.25.350(c).

Sec. 51 Effective date for sections 2 and 25. July 1, 2008.

Sec. 52 Effective date for sections 3, 26, and 27. July 1, 2010.

Sec. 53 Effective date remainder of bill. July 1, 2006.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 475
 () Publish Date: _____

Revision Date/Time (Note if correction): 3/7/06 7:56 a.m. Dept. Affected: Administration
 Title An Act relating to public employees' and teachers' retirement defined contribution retirement plans. RDU Centralized Administrative Services
 Component Retirement and Benefits
 Sponsor Representative Seaton
 Requester House State Affairs Component No. 64

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	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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	0.0	0.0	0.0	0.0	0.0	0.0

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)

HB 475 is a bill that provides clarifying revisions to SB 141 passed by the 24th Alaska Legislature and enacted as ch. 9, FSSLA 2005. Some of the provisions include the following: identifies a funding source for teachers' disability and death benefits; identifies a funding source for disabled police/fire members who elect a monthly retirement benefit under 39.35.890(h)(2); clarifies periods of disability and death benefits to constitute membership service; clarifies that a member or survivor is not entitled to elect distributions from the member's individual account while receiving disability or death benefits; clarifies provisions for appeals and definitions.

This bill has no fiscal impact on the Division of Retirement and Benefits.

Prepared by: Melanie Millhorn, Director Phone 465-4408
 Division Retirement and Benefits Date/Time 3/7/06 7:56 AM
 Approved by: Mike Tibbies, Deputy Commissioner Date 3/7/2006
 Agency Department of Administration

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

FRANK H. MURKOWSKI, GOVERNOR

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March 13, 2006

The Honorable Paul Seaton
Chair, House State Affairs Committee
House of Representatives
State Capitol, Room 421
Juneau, Alaska 99801

Re: Response to Questions from March 7, 2006 Meeting

Dear Representative Seaton:

During the last committee hearing on Tuesday, March 7, 2006, some questions were posed by Representative Gatto regarding survivor benefits for police and firefighters and other benefit questions involving the existing defined benefits retirement system. The questions are numbered and italicized below with responses to follow:

- 1. Define criteria that P/F members must work to receive PERS credit. What happens to on-call members who are paid but do not work a specific schedule?*

AS 39.35.680(29) "peace officer" or "fire fighter" means an employee occupying a position as a peace officer, chief of police, regional public safety officer, correctional officer, correctional superintendent, fire fighter, fire chief, or probation officer, but does not include a village public safety officer employed by a village public safety officer program established under AS 18.65.670.

2 AAC 35.850 Coverage as a Peace Officer or Fireman (a) Except as may be expressly authorized by As 39.35, a "peace officer" means only a person who is a regular employee of a police agency or organization which is part of the state or a political subdivision of the state and who has primary responsibility for the prevention and detection of crime and the enforcement of the fish and game, penal, traffic or highway laws of the state or employing political subdivision. A "fireman" or "fire chief" means only a person who is a regular employee of the state and who is authorized to act under AS 18.70.

On-Call Members of a Police or Fire Agency

On call members are not eligible to participate in the PERS. The following statutes apply:

AS 39.35.680(31) defines a permanent full-time employee as an employee occupying a permanent position that regularly requires working 30 or more hours per week.

AS 39.35.680(32) defines a permanent part-time employee as an employee occupying a permanent position that regularly requires working at least 15 hours but less than 30 hours per week.

AS 39.35.680(22) "member" or "employee" in (C)(iii) specifically excludes casual or emergency workers or nonpermanent employees from participation in the PERS.

3. How about volunteers who may or may not be paid?

Volunteers are not employees of the employer under the statutes since they are casual or emergency workers who are not regularly scheduled to work 15 or more hours per week. They are not covered by PERS.

4. What are the survivor benefit options for P/F members?

The death benefits are dependent on whether the death is from occupational or nonoccupational causes or if death occurs while the member is actively employed or retired.

Active Employees

Occupational Death

Death must be from an injury or illness from occupational causes.

Survivor's Pension. The survivor receives the greater of 50% of the peace officer's or firefighter's gross salary at the time of death or 75% of the normal retirement benefit the member would have earned had he/she survived. (Non peace officer/fire fighter survivors receive 40% of the member's gross salary at the time of death.) If there is no surviving spouse, the pension is paid in equal parts to the eligible dependent children of the member. Children are eligible dependents if they are unmarried under age 19 or under age 23 and enrolled full-time in college or technical institution.

Medical Benefits. Survivors are also entitled to access to the AlaskaCare Retiree Medical plan by paying the premiums necessary for coverage. Survivors pay premiums until they reach eligibility for system paid premiums by tier.

Conversion to Normal Retirement. The survivor's pension is converted to a normal retirement benefit on the date the normal retirement of the member would have occurred if the member had lived. Service accrues from the date of death until the member would have been eligible for retirement either by service or age. The average of the three highest consecutive years salary during the member's working years are used in the calculation of the normal retirement. The survivor receives this benefit for his/her lifetime.

Nonoccupational Death Before Retirement

Lump Sum Option. Non-vested Member Death Benefits: Balance of employee contribution account plus \$1,000 (if a member at least one year) plus \$100 times the years of credited service.

Vested Member Death Benefits: Choice of the lump sum benefit shown for non-vested members or a monthly 50% joint and survivor benefit (spouse only) calculated on the member's average monthly compensation and years of credited service at the time of death.

Medical Benefits. Survivors are also entitled to access to the AlaskaCare Retiree Medical plan by paying the premiums necessary for coverage. Survivors pay premiums until they reach eligibility for system paid premiums by tier. For Tier III, member must have had at least 10 years of service at the time of death for the survivor to receive system paid medical premiums.

Retired Employees

If the member had elected a joint and survivor option at the time of retirement, a continuing monthly pension is paid to the surviving spouse based upon the level of coverage elected by the member.

When a member elects a joint and survivor benefit at retirement, their monthly normal retirement amount is reduced based on the age and estimated lifetime of the surviving spouse. The member receives this reduced benefit until their death and the survivor receives the selected percentage of the member's benefit, either 50%, 75% or 66 2/3% (66 2/3% is not available for tier III PERS members). If the member does not elect a joint and survivor option, the survivor is eligible for the balance of the member's contribution account, if any, at the time of the member's death.

If the survivor is receiving a continuing monthly survivor benefit, he/she receives the medical benefits the retiree was receiving for the remainder of the survivor's life. If the survivor remarries, any new spouse or dependents that were not eligible dependents of the member are not covered by the medical plan.

5. *Does the spouse receive a lesser benefit amount than the member receives when the member dies?*

For a nonoccupational death prior to retirement and a death after retirement, the spouse receives a lesser amount than the member either would have received at normal retirement or was receiving.

For an occupational death, the survivor receives either 40% of the member's salary at the time of death or 75% of the member's retirement benefit calculated as if the member has survived to normal retirement age.

6. *Can you provide projections of what a member would receive in order to determine what survivor benefits options are available?*

Attached.

7. *What happens to survivor when member dies while on occupational disability?*

The survivor receives:

Survivor's Pension. The survivor receives 40% of the member's monthly compensation at the termination of employment because of occupational disability. The survivor benefit is converted to a normal retirement benefit on the date the normal retirement of the member would have occurred if the member had lived. Service accrues from the date of death until the member would have been eligible for retirement either by service or age. The average of the three highest consecutive years salary during the member's working years are used in the calculation.

If there is no surviving spouse, the pension is paid in equal parts to the eligible dependent children of the member. Children are eligible dependents if they are unmarried, under age 19 or under age 23 and enrolled full-time in college or technical institution.

Medical Benefits. Survivors are also entitled to access to the AlaskaCare Retiree Medical plan by paying the premiums necessary for coverage. Survivors pay premiums until they reach eligibility for system paid premiums by tier.

8. *What happens to a member's benefits if they divorce before retirement?*

Retirement benefits are considered marital property and can be attached by a court order called a Qualified Domestic Relations Order (QDRO). A QDRO may assign a portion of the member's retirement benefit to the ex-spouse as well as medical benefit entitlements. The ex-spouse, however, usually must pay

premiums for the health coverage except in instances where the divorce occurs after retirement, the member and the ex-spouse were married at the time of retirement, the member chose a joint and survivor option and the ex-spouse is designated as the surviving spouse for pension and medical benefits.

9. *What happens to a member's benefits if retired and married then divorces?*

If the member elected a joint and survivor option at the time of retirement and subsequently divorces, the ex-spouse is considered the sole surviving spouse in the event of the death of the member. Any spouse married after retirement would have no benefit entitlement.

10. *Describe benefits for a survivor if P/F member, who has only worked a couple of years, dies on the job?*

Death must be from an injury or illness from occupational causes.

Survivor's Pension. The survivor has a choice between 50% of the peace officer's or firefighter's gross salary at the time of death or 75% of the normal retirement benefit the member would have earned had he/she survived.

The survivor benefit is converted to a normal retirement benefit on the date the normal retirement of the member would have occurred if the member had lived. Service accrues from the date of death until the member would have been eligible for retirement either by service or age. The average of the three highest consecutive years salary during the member's working years are used in the calculation.

Medical Benefits. Survivors are also entitled to access to the AlaskaCare Retiree Medical plan by paying the premiums necessary for coverage. Survivors pay premiums until they reach eligibility for system paid premiums by tier.

Please let me know if you have any questions about this correspondence.

Sincerely,



Melanie Millhorn
Director

Enclosure(s)
MM/KSL/ksl

Chair Seaton
House State Affairs Committee
March 8, 2006
Page 6

cc: Members of House State Affairs

Kevin Brooks, Deputy Commissioner
Department of Administration

Michael Tibbles, Deputy Commissioner
Department of Administration

Traci Carpenter, Project Manager
Department of Administration

**SAMPLE BENEFIT CALCULATION
PEACE OFFICER/FIREFIGHTER
PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

DEMOGRAPHIC INFORMATION

Age at retirement:	49 years, 6 mo.	Survivor age:	44
Service at retirement:	20.083 yrs.	Average Salary:	\$5,375.81

PENSION

Retirement Options Available:

	Retiree	Survivor Receives
Normal Retirement Benefit:	\$2,430.27	\$0
50% Joint and Survivor:	\$2,305.96	\$1,152.98
75% Joint and Survivor:	\$2,248.46	\$1,686.35
66 2/3% Last Survivor*:	\$2,311.38	\$1,540.90

*Under this option, whichever spouse is the survivor receives the reduced benefit.

MEDICAL ELIGIBILITY/PREMIUM PAYMENT

	Eligible	Medical Premium Retiree Paid	Medical Premium System Paid
Tier I	At retirement	N/A	Yes
Tier II*	At age 60	Until age 60	At age 60
Tier III**	At age 60	Until age 60	At age 60

* Tier II and III P/F members are eligible for system paid medical premiums with 25 years of peace officer/fire fighter membership service.

**Tier III must have a minimum of 10 years of credited service to have system paid medical premiums at age 60. Otherwise pays full premium for as long as coverage is desired.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

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March 13, 2006

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Dear Mr. [REDACTED]

This is a PERS projection of your retirement benefits that you recently requested. I based the calculation on information that is either in the System or provided by you when you asked for the projection.

Normal Retirement Benefit Estimates Effective December 1, 2005

Regular Benefit:	\$4,940	No Survivor Benefits !	
75% Joint Survivor			
Your Benefit:	\$4,530	Survivor's Benefit:	\$3,390
50% Joint Survivor			
Your Benefit:	\$4,660	Survivor's Benefit:	\$2,330
66 2/3% Last Survivor			
Your Benefit:	\$4,750	Last Survivor's Benefit:	\$3,160

Important notice: 66 2/3% Last Survivor benefit option is **different** from both the 75% and the 50% options in that regardless of who dies first, the benefit will be **reduced**. In other words, if your spouse dies before you do, **your benefit will be reduced!** This differs from the 75% and 50% above where if your spouse dies before you, your benefit is not reduced.

Remember, you must select one of the survivor benefits for your spouse to be able to continue medical and other elected insurance benefits after your death. Failure to choose one of the three survivor options means **ALL** benefits, including health insurance, will stop when you die. Your spouse must waive rights to benefits for you to elect a benefit other than one of the survivor options.



Level Income Option			
Benefit before age 65:	\$5,340	Benefit after age 65:	\$4,450

Important notice: Care should be taken when selecting this option. First, **there are no survivor options with an LIO**, and second, while it may seem advantageous to select this option because of the substantially larger benefit amount before age 65 - **remember**, your benefit **may** in some cases **be** substantially reduced when you reach age 65. Your COLA and PRPAs will also be proportionally reduced at that time. **DO NOT** select this option without considering this reduction. **You will not be able to change your mind once your benefits begin!**

The following service, earnings, and indebtedness information was used to calculate the benefit amounts:

• **Average Earnings**

Amount:	\$6,976 per month	This average is based on years:	2002	2003	2004
			\$81,398.00	\$84,864.00	\$43,006.15

• **Service Credit**

Employer	Occ	Status	Start	Stop	Amount
State Of Alaska	A	FT	10/20/1975	06/30/1986	10.6958
State Of Alaska	A	FT	07/01/1986	06/30/2004	18.0000
Military Service			09/18/1972	10/01/1975	3.0390
Total Service Credit					31.7358

Please review each employment segment listed above for accuracy, and report any discrepancies to your employer.

● **Indebtedness**(the amount you will owe at retirement)

Your Indebtedness is for	Amount	Future Value
Not Applicable	\$0.00	\$0.00
Owed at Retirement		\$0.00


Please remember, this is only an **approximation** based on the information that you provided and what has been reported to the system by your employer. The amounts shown **may be different when you actually retire.**

The benefit estimates above **do not** include the 10% Alaska Cost of Living allowance (COLA). This is an additional amount added to a recipient's benefits if that person chooses to live in Alaska. Please read the enclosed detail sheet for more information concerning this additional benefit.

I have enclosed several informational sheets concerning the benefit options available, medical insurance, Alaska cost of living allowances (COLA), federal taxes, and spousal/dependents' rights to benefits. If you have any questions, or if I may be of other service in the future please let me know.

If you have access to the Internet you may want to look at our web site at :

<http://www.state.ak.us/drb>



The site contains retirement statutes, regulations, and member handbooks. You can also access a benefit estimator that you can use to project your benefits under as many scenarios as you may wish.

Sincerely,

Bernadette Blankenship
Retirement Representative

enclosures:

5 informational sheets

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

FRANK H. MURKOWSKI, GOVERNOR

PO BOX 110203
JUNEAU, AK 99811-0203
TDD: (907) 465-2805
FAX: (907) 465-3086
PHONE: (907) 465-4460
TOLL-FREE 1-800 821-2251

March 7, 2006

The Honorable Paul Seaton, Chair
House State Affairs Committee
State Capitol, Room 106
Juneau, AK 99811

Dear Representative Seaton:

During the last committee hearing on Thursday, March 2, some questions were asked by Representative Gatto regarding provisions contained in HB 475. The questions are numbered and italicized below with responses to follow:

- 1. Is there a clearer definition of "peace officer" or "fire fighter" and why are village public safety officers (VPSOs) excluded from the Public Employees' Retirement System? (Sec. 45)*

The definition of "peace officer" or "fire fighter" offered in HB 475 is identical to the definition contained in the current DB plan statutes [AS 39.35.680(29)]. The reason for the clarification is that the current definition under the DCR statute [AS 39.35.990(20)] refers back to AS 39.35.680. Due to the many references to "plan" and "member" and "employee" the reference becomes confusing.

In 2003, the IRS issued a private letter ruling (PLR) that found the inclusion of VPSOs in the PERS is not allowable and would adversely impact the plan. The reason is that VPSOs are not considered employees of the State or a political subdivision but rather recognized employees of a corporation formed under the Alaska Native Claims Settlement Action of 1971 which are not an instrumentalities of the State of Alaska. A copy of the PLR is enclosed.

- 2. Will the benefit of a surviving spouse be less than that of the member had the member survived?*

In the context of the survivor benefits being discussed under HB 475, a survivor's pension is 40% of the gross monthly salary of the member at the time of occupational death. This is identical to the current DB plan benefits.

The Honorable Paul Seaton
March 7, 2006
Page Two

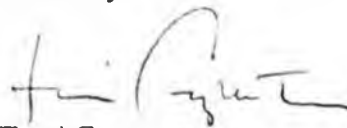
In the context of a normal retirement benefit, meaning the member was receiving a monthly retirement benefit and subsequently dies, the surviving spouse's benefit is based on the election of a joint/survivor option made by the member. The options include: 50%, 75%, or 66 2/3 percent of the member's normal retirement benefit. If a joint/survivor benefit is elected, the member's normal retirement benefit is reduced by an amount actuarially determined to pay for the survivor benefit.

3. *Are we changing the definition of which employees need a teacher certificate under Sec. 44?*

No. This section is clarifying the definition of "member" or "employee" under PERS, and emphasizes that an instructor employed by the Departments of Labor or Education in a position that requires a teacher certificate is excluded from the PERS because, by the definition of "teacher" under TRS, they would be members of the TRS.

Please let us know if we can be of further assistance to you and the Committee members.

Sincerely,



Traci Carpenter
Project Manager

Cc: House State Affairs Committee Members
Melanie Milhorn, Director, R&B
Kevin Brooks, Deputy Commissioner, DOA

Enclosure

Uniform Issue List Nos.: 402.01-00
414.09-00



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

AUG 13 2003

RECEIVED

AUG 19 2003

Div. of Ret. & Benefits

State of Alaska
PO Box 110203
Juneau, AK 99811-0203

Attn: Melanie A. Millhorn, Director
Public Employees' Retirement System of Alaska

Legend:

State	= State of Alaska
Department B	= Alaska Department of Public Safety
Plan X	= Public Employees' Retirement System of Alaska
Group C Employees	= Employees of the State of Alaska and its political subdivisions, public corporations and public organizations, and employees of other employers whose participation in the Public Employees' Retirement System of Alaska is authorized by Statute D
Statute D	= Alaska Statutes Title 39. Chapter 35. Sections 39.35.010 et seq.
Act E	= The Alaskan Native Claims Settlement Act of 1971, 43 U.S.C. Sections 1601 et seq.
Code F	= Alaska Administrative Code
Manual G	= Village Public Safety Officer Field Manual
Program H	= Village Public Safety Officer Program
Community Officers	= Village Public Safety Officers
Number J	= Eighty-five

K Corporations

= Aleutian Pribilof Islands Association,
 Association of Village Council Presidents,
 Bristol Bay Native Association,
 Chugachmiut,
 Kodiak Area Native Association,
 Kawerak,
 Tanana Chiefs Conference,
 Maniilaq Manpower,
 Central Council Tlingit Haida Indian Tribes of
 Alaska

Dear Ms. Millhorn:

This is in response to correspondence dated October 16, 2001, as supplemented by additional correspondence dated February 1, 2002, March 15, 2002, May 16, 2002, November 1, 2002, November 15, 2002, November 27, 2002, December 6, 2002, March 31, 2003 and May 6, 2003, from your authorized representative, in which you request a ruling on whether the status of Plan X as a governmental plan under §414(d) of the Internal Revenue Code ("the Code") will be adversely affected by the inclusion of Community Officers.

The following facts and representations have been submitted:

Pursuant to Statute D, the State created Plan X (also referred to herein as "the System") in 1961 as a defined benefit pension and retirement system to provide retirement and other benefits for Group C Employees. Plan X is intended to meet the qualification requirements of Code §401(a) to the extent that section applies to a governmental plan within the meaning of §414(d) of the Code.

Effective January 1, 1987, all participating employees are required to contribute a percentage of their compensation to Plan X. No option to receive this amount in cash has ever been permitted. Statute D also allows the State to pick up and pay the mandatory contributions to Plan X pursuant to §414(h) of the Code. As of January 1, 1987, the State has treated the employee contributions in a manner consistent with §414(h)(2).

In 1985, the State established Program H within Department B pursuant to State Statute. Program H was established to assist local governments and villages in protecting life and property in rural areas of the State and to provide probation and parole supervision services. Program H, however, was not designed to be a village or community police force. Under Program H the role of a Community

Officer is more than just law enforcement, and the vast majority of requests for the services of a Community Officer are for non-criminal matters. The Community Officer provides (1) support in the rendering of emergency medical services, (2) search and rescue support, (3) fire safety and prevention support, (4) water and boating safety, and (5) minor law enforcement service to a community, primarily the handling of misdemeanor infractions of the State's criminal code. Community Officers are not obligated to respond to or participate in any type of armed conflict. In accordance with Code F, Community Officers are prohibited under the state funding grants from carrying firearms in the regular course of their duties, except in an emergency.

Community Officers are employed by certain K Corporations established pursuant to Act E. All K Corporations (which may be nonprofit or for profit) employing Community Officers intended to be covered by this ruling are organized under state law as nonprofit corporations and have been in existence prior to the establishment of Program H. Under Act E, Native Indians of the State own the stock in the K Corporations. The State, including Department B, does not participate in the selection of the board of directors for the K Corporations. The involvement of K Corporations in Program H is separable from the other activities and functions of the K Corporations.

Program H is funded through grants issued by Department B. Department B and the K Corporations enter into a written grant agreement detailing the Program responsibilities and duties. Program H sets forth detailed policies and procedures that must be followed in order for a grant to be approved and maintained. In addition, several key personnel positions are required by the Program H enabling legislation to ensure that Program H operates as intended and in accordance with State Statutes. The written agreement between Department B and a K Corporation must also name the K Corporation as the employer, for all purposes, of a Community Officer.

State Troopers are Department B employees. A State Trooper is responsible for making periodic visits to a village or community in which a Community Officer has been assigned, acting as a mentor and as a liaison between the Department and the community or Community Officer, providing on-the-job training to the Community Officer, reviewing the Community Officer's log book, monitoring the Community Officer for compliance with applicable rules and providing the K Corporation with an evaluation of the Community Officer's performance. State Troopers, however, do not supervise the daily activities of Community Officers. The State Trooper is responsible for providing state law enforcement services to a village or community to which a Community Officer is assigned. The

Community Officer is not a police officer, and ultimate responsibility for criminal law enforcement lies with the State Trooper, particularly in regard to crimes more serious in nature than mere misdemeanor violations.

State Trooper superiors participate in the review of certain Program H documentation required to be provided by the K Corporation to Department B. The Program H Coordinator is a Department B position that has responsibility for overseeing the overall operation of the Program. The K Corporation Coordinator is an employee of the K Corporation who has responsibility for evaluating the performance of Community Officers, as well as allocating and distributing the funds supplied by a grant.

The K Corporation may not use grant money to employ a Community Officer for a particular village unless the village, through its governing body, enters into a written agreement with the K Corporation. According to relevant provisions of Code F, the village or community, in its agreement with the K Corporation, sets out the job description for the Community Officer, specifying duties that the community expects the officer to perform. The community also names a local supervisor to assume the daily control of the Community Officer's work and to act as a liaison between the Community Officer and the community. The party responsible for supervision of the daily activities of a Community Officer is identified in Code F as the "governing body" of the village or community. The "governing body" means the elected city council, traditional council, or elders council that the State recognizes as having governmental functions and that the K Corporation accepts as appropriate to supervise the daily activities of a Community Officer. All non-criminal activity (the majority of the work) conducted by the Community Officer is at the direction and priority of the village councils. Currently there are approximately the Number J of villages or communities to which a Community Officer has been assigned.

The written agreement between the K Corporation and the village or community recognizes that the Community Officer is an employee of the K Corporation. In the resolution of any dispute arising under the agreement, including the removal of a Community Officer from the position and the position from the village or community, the President of the K Corporation, or his or her designee, has final and conclusive authority to resolve the dispute.

The State represents that Department B has control over Program H by virtue of the fact the K Corporations and the Community Officers are subject to regulations, policies and procedures that are found in the Program H authorizing legislation, the grant agreement, Code F and Manual G. The State maintains that these rules, policies and procedures that the K Corporations and Community Officers must adhere to are enforceable by Department B by (1) controlling the

grant of authority and funding, (2) monitoring of Community Officers by the State Trooper, and (3) the requirement by authorizing legislation of a State Trooper, K Corporation Coordinator, and a Program H Coordinator to ensure that the program operates as intended.

The State proposes to permit the K Corporations to adopt the System as the retirement benefit plan for persons employed as Community Officers. Based on the foregoing facts and representations, you requested the following rulings:

1. That the adoption of the System by certain K Corporations with respect to Community Officer employees only, will not adversely affect the System's status as a governmental plan within the meaning of Code §414(d).
2. That the mandatory employee contributions paid to the System by the State on behalf of the Community Officer employees, will qualify as "picked-up" contributions within the meaning of §414(h)(2) of the Code.

Section 414(h)(2) of the Code provides that, in the case of any plan established by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing, where the contributions of employing units are designated as employee contributions but where any employing unit picks up the contributions, the contributions so picked up will be treated as employer contributions.

Section 414(d) of the Code provides that a governmental plan means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Revenue Ruling 89-49, 1989-1 C.B. 117, provides that a plan will not be considered a governmental plan merely because the sponsoring organization has a relationship with a governmental unit or some quasi-governmental power. It holds that one of the most important factors to be considered in determining whether an organization is an agency or instrumentality of the United States or any state or political subdivision thereof is the degree of control that the federal or state government has over the organization's everyday operations. Other factors listed in Revenue Ruling 89-49 include: (1) whether there is specific legislation creating the organization; (2) the source of funds for the organization; (3) the manner in which the organization's trustees or operating board are selected; and (4) whether the applicable governmental unit considers the

employees of the organization to be employees of the applicable governmental unit. Although all of the above factors are considered in determining whether an organization is an agency of a government, the mere satisfaction of one or all of the factors is not necessarily determinative.

In the instant case, applying the principles set forth in Revenue Ruling 89-49, we find the degree of control exercised by the State over the daily operations of the Community Officers to be minimal, with control in the hands of the K Corporation and the village or community to which a Community Officer is assigned.

As represented, a Community Officer is subject to monitoring by a State Trooper, an employee of Department B. The State Trooper's superior participates in the review of certain Program H documentation that must be provided by the K Corporation to Department B. The Program H Coordinator is a Department B position that has responsibility for overseeing the overall operation of the Program.

The State has not demonstrated that the aforementioned Departmental positions control or supervise the daily activities of Community Officers. The monitoring provided by the State Trooper consists of periodic visits with Community Officers, mentoring and other administrative duties. There has been no representation that the Program H Coordinator is involved with the daily activities of a Community Officer. In addition, Manual G, a Department B field manual for Community Officers, states that the K Corporation Coordinator, an employee of the K Corporation, is responsible for evaluating the performance of Community Officers. The Manual further provides that in completing the evaluation, the "community representative" responsible for the Community Officer's supervision, the individual Community Officer and the assigned State Trooper are contacted for comment.

Further, the K Corporation may not employ a Community Officer for a particular village unless the village, through its governing body, enters into a written agreement with the K Corporation setting forth the duties that the village or community expects the Community Officer to perform. In Code F, the term "village" is defined to mean a community with a population of less than 1,000 individuals. The community representative responsible for supervision of the daily activities of a Community Officer is identified in Code F as the "governing body" of the village or community. The "governing body" means the elected city council, traditional council, or elders council that the State recognizes as having governmental functions and that the K Corporation accepts as appropriate to supervise the daily activities of a Community Officer.

Considering the other factors set forth in Rev. Rul. 89-49, the enabling legislation for Program H did not establish the K Corporations or specify that the K Corporations would be the vehicle or medium to implement Program H. The K Corporations were already in place throughout the State when Program H was established.

Funding for Program H is provided entirely by Department B through grants to the K Corporations. The State maintains that it controls the K Corporations due to the fact that Department B, in its discretion, may terminate a grant if the K Corporation or a participating village or community is not complying with all the Program policies and procedures. However, the State's argument that it controls the K Corporations and the Program, through funding, is diminished by the fact that the K Corporation Coordinator, a K Corporation employee, has responsibility for the allocation and distribution of funds supplied by the state grant. The K Corporations formally employ the Community Officers, enter into contracts specifying the terms of Program H and pay officers' salaries with the funds granted by the State. Although Program H is supported by State funds, we do not find this factor to be determinative of agency or instrumentality status in this case because the K Corporations possess the authority to allocate the funds. No funded Community Officer position can be assigned to a requesting village or community unless the K Corporation, not the State, enters into a written agreement with the village or community.

The State, including Department B, does not participate in the selection of the board of directors for the K Corporations. Pursuant to Act E, the management of the K Corporation is vested in a board of directors, all of whom shall be stockholders over the age of eighteen (the stockholders of the K Corporations are Native Indians of the State). Due to the fact that the State does not participate in the selection process, the board of directors is not controlled by the State. Thus, the State does not possess the requisite degree of control over the K Corporation decision-making process in the day to day implementation of Program H (i.e., through lack of control over key personnel such as the K Corporation Coordinator).

Finally, Community Officers are not employees of the State or a political subdivision thereof. State Statute requires that Department B and the K Corporation enter into an agreement in which, among other requirements, there must be a provision that names the K Corporation as the employer, for all purposes, of a Community Officer. The K Corporation may not use grant money to employ a Community Officer to serve in a particular village or community unless the village or community, through its governing body, enters into a written agreement with the K Corporation. The written agreement between the K

Corporation and the village or community recognizes that the Community Officer is an employee of the K Corporation, and that in the resolution of any dispute arising under the agreement, including the removal of a Community Officer from the position, the President of the K Corporation, or his or her designee, has final and conclusive authority to resolve the dispute.

The State has represented that the villages or communities to which a Community Officer has been assigned, as incorporated municipalities or unincorporated villages, are political subdivisions of the State. Although we find that the village or community may exert a significant degree of supervision over the daily activities of a Community Officer, we must conclude that the Community Officer is an employee of the K Corporation and that the K Corporation exerts the ultimate degree of control over a Community Officer's employment.

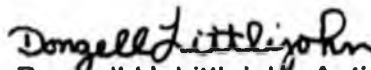
Thus, we conclude that the K Corporation(s) is not an agency or instrumentality of the State or a political subdivision thereof. Accordingly, as for the first ruling requested, we find that the inclusion in Plan X of Community Officers, who are employees of a K Corporation which does not qualify as an agency or instrumentality of the State or a political subdivision of the State, will adversely affect the status of Plan X as a governmental plan under §414(d) of the Code.

Similarly, because we have determined in accordance with Revenue Ruling 89-49, that a K Corporation does not qualify as an agency or instrumentality of the State or a political subdivision thereof, it is concluded with respect to ruling request two that the applicability of the provisions of §414(h)(2) of the Code to Plan X will be adversely affected by including as members therein the Community Officer employees of the K Corporations, and that the mandatory contributions of such employees to Plan X which may be assumed and paid by the State will not qualify as "picked-up" contributions within the meaning of §414(h)(2) of the Code.

This ruling is directed only to the taxpayer that requested it. Section 6110(k) of the Code provides that it may not be used or cited by others as precedent.

A copy of this ruling is being sent to your authorized representative pursuant to a power of attorney on file in this office. Should you have any questions pertaining to this ruling, you may contact Denise Y. Bowen (ID # 50-21343) of this office at (202) 283-9580.

Sincerely yours,



Donzell H. Littlejohn Acting Manager,
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of the Ruling
Notice of Intention to Disclose, Notice 437

cc: Thomas M. Mayer
400 One Financial Plaza
Minneapolis, MN 55402

EP Area Manager Pacific Coast Area, STOP 7000
Internal Revenue Service
300 N. Los Angeles Street
Los Angeles, CA 90012-3335



NEA-ALASKA

Affiliated with the National Education Association

TESTIMONY ON HB 475 BILL BJORK, PRESIDENT NEA-ALASKA

Bill Bjork

Chairman Rep. Seaton and members of the House State Affairs Committee, my name is Bill Bjork and I serve as the President of NEA-Alaska. NEA-Alaska represents over 11,400 active public school employees and over 1,300 retired public school teachers. I appreciate the opportunity to testify on HB 475.

I cannot avoid the temptation to say, "I told you so." Last year I urged this committee to take its time to examine the retirement issues as it considered HB 238 as it was drafted last year and SB 141. In fact NEA-Alaska specifically encouraged the committee to use the interim to study all the issues and work with the employee organizations to fashion a good solution to the retirement liability dilemma. Today we are here looking at HB 475 which "is a clean up bill to" SB 141. Again, NEA-Alaska urges you to **set aside HB 475 and in its place introduce a companion bill to SB 293, which would delay the implementation of SB 141 until July 1, 2008.**

According to the Sponsor Statement, "a handful of errors and oversights were made that need to be changed for a smooth transition." My hand could hold four or five items, but not thirteen (13) bulleted items that actually make over twenty (20) amendments to the law. If this is the number of changes proffered now, what might be the number discovered with further study. In fact no one is sure that the present plan, even with the changes "required prior to July 1, 2006", will meet the compliance regulations of federal law. In fact several folks, who understand federal ERISA regulations and Internal Revenue Code, believe the basis of the Health Reserve Account contribution must be changed "to the average compensation for all plan participants." Thus, I repeat NEA-Alaska's request that you **set aside HB 475 and in its place introduce a companion bill to SB 293, which would delay the implementation of SB 141 until July 1, 2008.**

Last session, NEA-Alaska urged you to consider the impact on the present retirement plans if the plans are closed and, thus, the payroll based contributions are reduced. You assured us there was no impact. Today we know better. We know "employer rates for past service costs will continue to rise as amortized liability is applied to a shrinking payroll paid to members of the defined benefit plans." Thus, not only did SB 141 not address the liability of the retirement plans, it increased the liability for employers. Are you sure that the proposed change will not lead to greater problems? Do you have the actuarial data to make this determination? NEA-Alaska believes the answer is no to both questions. Thus, I repeat NEA-Alaska's request that you **set aside HB 475 and in its place introduce a companion bill to SB 293, which would delay the implementation of SB 141 until July 1, 2008.**

NEA-Alaska believes that the \$5.7 billion liability of the present plans is not growing as fast as it was projected to grow last session. One reason is the larger than expected investment return. We are also waiting for the actuarial reports to the ARM board to determine whether or not Mercer's assumptions were appropriate given the Alaska experience. It seems inappropriate to act until we hear from the folks SB 141 authorized to make recommendations.

As the committee knows from NEA-Alaska's testimony last year, we believe a defined benefits plan is far superior to a defined contributions plan for retirement purposes for public employees. We understand the concerns of the entire legislature that predictability of costs and limitation of liability must be primary components of any new plan. NEA-Alaska believes a defined benefits plan can be fashioned based on a set contribution from the employer and the employee and the legislature should have the opportunity to choose between SB 141 and such a plan. Last year's forced choice was not good public policy. Thus, I repeat NEA-Alaska's request that you set aside HB 475 and in its place introduce a companion bill to SB 293, which would delay the implementation of SB 141 until July 1, 2008.

Thank you for your time.

Rep. Paul Seaton

From: Gerry Guay [gcgjguay@gci.net]
Sent: Monday, March 06, 2006 11:53 PM
To: Rep. Paul Seaton; Representative_Carl_Gatto%
Representative_Max_Gruenberg@legis.state.ak.us; Rep. Bob Lynn; Rep. Jim
Elkins; Rep. Jay Ramras; Rep. Berta Gardner
Subject: HB 475

I stayed and worked long hour for less than adequate pay, trained my industry counterparts on how the job really was to be done, served the public, and performed my assigned tasks professionally. Now an ever looming plague hangs over the s tate worker, one which changed the retirement system from a career path to no incentive to stay in government service. For those that have dedicated a significant part of their working career to state service, the threat of reduced benifits and poor medical is becoming a greater reality. SB 141 may have survived the last minute flurry of legislative folly last May, but the laugh and history will be on those who voted it in when state government sees a mass exodus of skilled employees during impending retirements and hiring of gas pipeline workers. We are already seeing a huge difference in skill level between those we are hiring and those who are leaving. Newer, younger, environmental staff are not staying, but instead leaving for higher paying jobs which required the 1-2 year's of experience they just got from us. While funding state government in the future is a concern, have trained, qualified professional workers to operate state government must take high priority al so. [...]

Content analysis details: (1.10 points, 5 required)

VERY_SUSP_RECIPS (1.1 points) Very similar addresses in recipient list

Honored Representatives, I am taking the time to ask you to consider dropping benefits 475 and supporting Senator Elton's SB293 which would allow you more time to consider the ramifications of tinkering with a fix for PERS and TERS pensions. I understand you attention has been focused on the oil and gas initiatives and the provision of HB475 have not been finalized for your or public review. This does not lead to good decision making and definetly does not allow for a government of the people. As a 20 year plus employee of the state I am concerned where the promised retirement system is heading. As an engineer who could have made much better money outside of state government, I believe I entered into a binding contract with the state. I stayed and worked long hour for less than adequate pay, trained my industry counterparts on how the job really was to be done, served the public, and performed my assigned tasks professionally. Now an ever looming plague hangs over the s tate worker, one which changed the retirement system from a career path to no incentive to stay in government service. For those that have dedicated a significant part of their working career to state service, the threat of reduced benifits and poor medical is becoming a greater reality. SB 141 may have survived the last minute flurry of legislative folly last May, but the laugh and history will be on those who voted it in when state government sees a mass exodus of skilled employees during impending retirements and hiring of gas pipeline workers. We are already seeing a huge difference in skill level between those we are hiring and those who are leaving. Newer, younger, environmental staff are not staying, but instead leaving for higher paying jobs which required the 1-2 year's of experience they just got from us. While funding state government in the future is a concern, have trained, qualified professional workers to operate state government must take high priority al so.

So yours is not an easy task. The national health care crisis is killing out retirement medical but shooting the retirees is not the answer. In planning for your retirement you, like I put money aside for the future, yet many are considering not putting some of the oil dollar windfall into the retirement system. It's that type thinking in the past that has gotten us to where we are today. We have a system which lets small retirement programs qualify under PERS even when they do not p y their share and this becomes an emergency for the retiree how? I agree the system has flaws that need to be fixed and starting with more competent state leadership is the first place I'd look. not with the worker who worked to keep his or her head barely above water

for 25 years. Reward them for their good work, not highlight why government service is the last place to work.

Louie Flora

From: POMS@legis.state.ak.us
Sent: Monday, March 06, 2006 10:03 PM
To: Louie Flora
Subject: New Pom:HB 475 Pub Employeæ & Teacher Retirement & Sbs

Darwin Walter Jr
2330 Scarborough Dr

Anchorage 99504-3352,

Please do not pass HB 475. The implementation of SB 141 needs to be delayed (2 yrs. re: SB 293) until it is appropriately re-drafted to respnd to new information and more thoughtful consideration of its long term consequences.

Louie Flora

From: POMS@legis.state.ak.us
Sent: Monday, March 06, 2006 8:21 PM
To: Louie Flora
Subject: New Pom:Retirement

David Conway
9056 Nirnis Dr

Juneau 99801-8770, David F. Conway
dave.conway@uas.alaska.edu
907-465-6496
907-789-9737

Please drop HB 475 PERS/TERS Fix Bill, and move SB 293 Delaying implementation of SB 141 for two more years.

To the Senate ...please schedule SB 293.

More thought is needed on SB 141 and shouldn't be rushed.

HB 475 full content isn't available yet...no time to digest.

1.

Post Retirement Pension Adjustment

The Issue-

The SB141 Problem has led to many new members. All want to know if their pensions will be inflation proofed after they are 60 or retired 5 years. The confusion is with the language in an amendment which precluded the administrator from acting upon inflation proofing if the retirement funds were not at 105% funding. The second confusion was the misinformation regarding whether this applied to current plan members.

This is a record of the dialogue from and as a result of our meeting with Senator Wilken on Feb. 22, 2006, his response, and our follow up fact finding with Retirement and Benefits. We respectively thank Senator Wilken in assisting us. Representative Guttenberg and Representative Holm were also visited.

Sen. Seekins could not see us despite the fact we had an appointment. Rep. Ramras was in Oil and Gas business, and Representative Kelly said he was unavailable.

The Law-

Sec. 18. AS 14.25.143(a), as that subsection read following amendment by sec. 3, ch. 146, SLA 1980, until amended by sec. 12, ch. 106, SLA 1988, is amended to read

(a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, the administrator shall increase benefit payments to persons receiving benefits under this plan. **For purposes of this subsection, the financial condition of the fund would only permit an increase in benefits when the ratio of total fund assets to the accrued liability meets or exceeds 105 percent.** In this subsection, "accrued liability" means the present value of all member benefits accrued by member service in this plan [SYSTEM].

Fact Finding-

1. Information supplied to our RPEA member by R+B on 1-4-06:

To R+B: Thank you very much for your speedy reply. I'm familiar with the site you suggested; my interest is in how PRPA and other retirement benefits will be affected when SB141 goes into effect on July 1 of this year. Thanks again, our RPEA member-

R+B Reply: SB 141 will not affect you at all. This bill affects only newly hired members joining the system after July 1, 2006.

2. Our Visit to Senator Wilken at 1PM, 2-22-06. Doris Robbins, Judith Strohmaier, and myself-

To Sen. Wilken: "you said at our 12-17 AARP-Teacher's meeting that our retiree benefits were not changing, but then you informed us the fund had to be 105% funded to be inflation proofed that was why so many people were upset about the situation."

Senator Wilken replied: "This is not true. Your benefits are inflation proof". He was told this at the Finance Committee table that "retiree benefits were inflation proofed." We explained the confusion about the 105% amendment. He would look into it with Senator Stedman and Retirement and Benefits.

So this is the answer- from Sen. Wilken according to Sen. Stedman.

Senator Wilken's reply by E-Mail on 2-24-06—

Hello Mr. Gallagher and Mrs. Robbins:

I checked with Senator Stedman. Your pension payments under Tier 1, 2, and 3, are adjusted (after age 59 or 5 (PERS) / 8 (TRS) years of retirement) for inflation through either an "ad hoc" (Tier 1 only) or an "automatic" method of adjustment.

The method is a function of the funding level, but one way or the other, the protection exists.

For clarification or verification, please call Dept. of Retirement Benefits, Ms. Kathy Lea (465-3226).

Hope this helps a bit. Thanks for spending your time with me.

Keep an eye on the ARM Board.

Gary Wilken

Phone Call to Ms. Kathy Lea at Retirement and Benefits on 3-1-06—

This is a copy of the E-mail I sent to Doris Robbins

Doris: re Sen. Wilken I called Kathy Lea at R+ B. 465 3226. I asked her for clarification:

1. Automatic inflation proofing still continues as before at 50% of the Anchorage cpi for all three tiers until 65 and 75% after 65.
2. There is an Ad Hoc provision for tier 1 to get 100% of the Anchorage cpi, if the Commissioner requests it. However SB141 now defines that the fund must be 105% in order for the Commissioner to even consider the 100% "Ad Hoc" inflation proofing.

Unless the funds are at 105% of funding there is no way under current circumstances for tier 1 to get 100% inflation proofing. Legislature refusal to fund the alleged shortfall precludes any opportunity for 100% inflation proofing.

The Handbook— Every Tier One retiree was promised their retirement would be inflation proofed. It was set in law. Other pensions such as Social Security are fully inflation proofed. These former employees are subject to substantially reduced Social Security. There is a reliance on Government to keep its promises.

Discussion of the Consequences—

Diminishment- Sen. Gary Wilken's statement that there was no "change" is his belief. It is quite apparent from his strong statements to us at the Noel Wien library in December and in person on February 22nd he was **told** there was no diminishment. His E-mail re-defines his assumption to now include "while this is a function of the funding level" points out an epiphany of understatement.

There is a strong presumption that Sen. Wilken and many others did not understand the effect of the 105% amendment buried in this bill. After all he had to go back to Stedman for interpretation. For Tier 1 clearly there is a diminishment. While it depended upon the request of a Commissioner, after SB 141 is in effect the Commissioner cannot even elect the Ad hoc PRPA unless the fund is determined to be 105% funded.

Example- If one is receiving a \$20000.00/ year PERS or TRS retirement, one will at least get inflation proofing at 50% at 60 and 75% at 65. Without the Ad hoc 100% and assuming one is 60, at a 3.5%* inflation rate over 30 years your \$20000.00 will be worth about 65% or \$13,000.00/ year in current buying power. With the Ad Hoc it could be worth \$20000.00 as long as a Commissioner chose to exercise the PRPA provision consistently. SB141 passage definitely diminishes Tier 1.

Ms. Lea stated this is something she explains frequently to retirees.

* This is assumed slightly high, but pragmatic given the current U.S. debt structure due to war and the current application of Keynesian economic tax structure.

Flaw in reasoning- The 105% requirement places the burden upon the most senior retirees. Society does not expect persons in their high seventies and eighties to return to work to replace what they were promised and lost. The law informed them they were to be inflation proofed.

The insertion of 105% is most cynical in its very nature. By the nature of the 105% amendment it places the burden of the current under fund of the PERS/TRS Trust upon innocent and vulnerable people because of the years for it to take effect.

The law makers who are responsible will not be forgotten; however it is quite apparent that many did not know the full effect of the 105% amendment upon senior retirees.

Between 1997 and by 2002 my limited records indicate the ad hoc provision protected retired state employees from the erosion of a total about 15% of their annual pension income. A retiring employee at age 60 can expect to lose 30% of their pension by the time they are 80.

I strongly suggest you amend this assault upon them through this insidious but very real diminishment.

Request and Resolution— Please restore the former status of AS 14.25.143 (a) in HB 475.

Charles H Gallagher

P.O. Box 42

ESTER ALASKA 99725

cgallagher@Alaska.net

(907) 479 2664

Doris Robbins
3763 Mitchell Avenue #B
Fairbanks AK 99709-4636

(907) 374-0597
drobbins@gci.net

March 6, 2005

RE: HB 475 and Related Issues

Representative Seaton and House State Affairs Members,

I am greatly concerned at the need for such legislation as HB 475. Except for the foresight of some concerned legislators who voted to delay implementation near the end of session last year, we would now be trying to run state government according to SB 141. Why was due care not taken before passing SB 141? Was there no analysis done of this legislation before it passed? Did anyone do any research into why some states that had switched to the Defined Contribution system decide to go back to a Defined Benefit system? I have read some statements that Defined Contribution systems cost so much to run that there were no savings by changing from the Defined Benefit system.

If SB 141 were now in force our whole mechanism for operating state government would be in trouble. Since it does not meet IRS regulations, would it also have jeopardized federal funding which is so important to Alaska as well?

Legislators have insisted that pre SB 141 retirees would stand to lose none of their retirement benefits, stating that retirees were "bulletproof." That was the terminology used. When asked to confirm the meaning of the phrase in SB 141 which states that "the financial condition of the fund would only permit an increase in benefits when the ratio of total fund assets to the accrued liability meets or exceeds 105 percent," it was learned that those in the old system are indeed affected. This makes it seem clear that retirees will no longer have any inflation proofing and the retirement benefits of PERS/TRS retirees would steadily lose value over the years.

For the above reasons, I ask that you take more time to work on problems and pass

legislation such as Senator Kim Elton's SB 293. This would postpone implementation until July 1, 2008, and allow time to work carefully and be certain that SB 141 meets all regulations and does not affect previous constitutionally guaranteed benefits or cause federal legal problems.

What I am observing is that the whole legislature is focused on oil and tax legislation, with good reason. We sure don't want mistakes with oil and gas legislation as it would be even more difficult to make corrections when dealing with corporate giants.

I fear that HB 475 will only compound present problems. Changes by HB 475 must be assured not to conflict in some unknown manner, creating even more problems with SB 141. In addition, it seems foolish to rush to pass more legislation affecting the retirement system until the new actuarial reports are in and have been analyzed to confirm the real status of the current system. How can you know contribution rates are accurate?

Please consider your actions and do not compound the current errors in SB 141 with new, unanalyzed changes which are made in haste without the benefit of the full data from the new actuarial report which only becomes available after session end.

Sincerely,



Doris Robbins

PERS/TRS Retiree
Retired Public Employees of Alaska
Legislative Committee Chair

cc: Representative Gatto
Representative Elkins
Representative Lynn
Representative Ramras
Representative Gardner
Representative Gruenberg

Louie Flora

From: POMS@legis.state.ak.us
Sent: Tuesday, March 07, 2006 7:21 PM
To: Louie Flora
Subject: New Pom:HB 475 Pub Employee & Teacher Retirement & Sbs

Joseph Hodgson
Po Box 211035

Auke Bay 99821-1035,scotty
scotty57@gci.net

586-1830

This is a bad patch on a bad bill. A more considered approach to the retirement question is necessary. I urge you to support SB293. It gives more time to consider all facets of a complex issue.

Respectfully,
J. Scott Hodgson

FAX TRANSMITTAL

DEPARTMENT OF ADMINISTRATION

Office of Administrative Hearings

P.O. Box 110231

Juneau AK 99811-0231

Date: Mar. 20, 2006

TO: Katy in Rep. Seaton	FROM: Terry Thurbon
FAX: 465-3472	FAX: (907)465-2280
Pages, including cover sheet 3	PHONE: (907)465-1886

RE:

Per your request, here is a copy of the letter.

The information contained in this communication is intended only for the use of the addressee and may be confidential. Unauthorized use, disclosure or copying is strictly prohibited, and may be unlawful. If you have received this communication in error or you have not received all pages, please call the sender.

STATE OF ALASKA

**FRANK H. MURKOWSKI,
GOVERNOR**

DEPARTMENT OF ADMINISTRATION
OFFICE OF ADMINISTRATIVE HEARINGS

P.O. BOX 110231
JUNEAU, ALASKA 99811-0231
PHONE: (907) 465-1888
FAX: (907) 465-2200

March 17, 2006

The Honorable Paul Seaton
Alaska State Representative
Chair, House State Affairs
Alaska State Legislature
State Capitol, Room 102
Juneau, Alaska 99801-1182

Re: House State Affairs Committee Meeting on HB 475

Dear Representative Seaton:

During the March 14, 2006 House State Affairs Committee meeting discussion of HB 475, a member asked a question that went unanswered. The question was prompted by the sectional analysis for the Committee Substitute for House Bill 475 (Work Draft \Y). The question indicated that committee members may have assumed that the Office of Administrative Hearings (OAH) requested the proposed expansion of the PERS/TRS hearing process to 180 days in sections 1 and 24 of the committee substitute. OAH did not request that change.

Though OAH was not the proponent of the change, I would like to offer a few observations to help the committee understand how that change would fit with current OAH procedures.

The sectional analysis suggests that one purpose of sections 1 and 24 is to change the statutory deadline for OAH decisions from 120 to 180 days in PERS/TRS cases. Under AS 44.64.060, however, the PERS/TRS cases (like most other OAH cases) are on a statutory decision track of 165 days, not 120 days. The 120-day deadline to which the sectional analysis presumably refers is an interim deadline for issuance of a proposed (not final) decision. The proposed 180-day deadline would be a final decision deadline and should be compared to the current 165-day period, not the 120-day period.

When the legislature passed the law creating OAH to conduct hearings for many state agencies, it provided OAH with tools to adapt the hearing process to work efficiently for different types of cases. If an individual case or a category of cases genuinely needs to be on a slower track (or can be effectively heard on a faster one), OAH can adjust deadlines.

FILE COPY

Representative Paul Scator

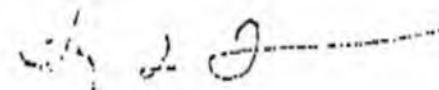
-2-

March 17, 2006

AS 44.64.060(d) specifically allows for the 120-day deadline for the proposed decision to change by agreement of the parties, with the consent of the chief administrative law judge. In addition, it allows for the possibility that another deadline for issuance of the proposed decision will be provided by law. If necessary, OAH can provide by regulation for a different deadline if a category of cases needs more time to get to the proposed decision step. From OAH's perspective, the tools the legislature has provided give the necessary flexibility to hear complex PERS/IRS (or other complex) cases on a slower track while still keeping the less complex cases on the quicker track.

I am copying this letter to Representatives Chenault and Meyer because I understand that the committee substitute passed out of your committee and that House Finance is the committee of next referral for HB 475. If members of your committee or of the House Finance Committee would like additional information about OAH procedures in PERS/IRS cases or other contexts, please do not hesitate to have someone contact me.

Sincerely,



Terry L. Thurbon
Chief Administrative Law Judge

cc: Representative Chenault, Co-Chair
Representative Meyer, Co-Chair
House Finance Committee

Scott Nordstrand, Commissioner
Department of Administration

Michael Tibbles, Deputy Commissioner
Department of Administration

Melanie Millhorn, Director
Division of Retirement & Benefits



Alaska Retirement Management Board

P.O. Box 110405
 Juneau, Alaska 999811-0405
 (907) 465-3749

January 27, 2006

The Honorable Kim Elton
 Alaska State Senate
 Alaska State Capitol
 Juneau, Alaska 99801-1182

Dear Senator Elton:

The Alaska Retirement Management Board (ARMB) received your January 9, 2006 letter at its meeting in Juneau January 12th and 13th. Your interest in addressing the unfunded liabilities of the retirement systems is appreciated by the board as we begin our work on this issue.

You requested comparative data of the cost to PERS and TRS employees of retirement benefits for the new Defined Contribution Plan (referenced as Tier IV in your letter) created by SB141 with costs for Tier III members. The tables below provide an analysis of the FY 2006 normal cost, expressed as a percentage of payroll, required to fund the pension, health and other benefits for Tier III employees and Tier IV employees:

Defined Benefit Plans	Employer Normal Cost		Employee Normal Cost		Total Normal Cost	
	PERS Tier III	TRS Tier II	PERS Tier III	TRS Tier II	PERS Tier III	TRS Tier II
Retirement Benefits	3.51	3.78	6.81	8.65	10.32	12.43
Medical Benefits	7.23	7.93	0.00	0.00	7.23	7.93
Total	10.74	11.71	6.81	8.65	17.56	20.36

The Honorable Kim Elton
 January 27, 2008
 Page Two

Defined Contribution Plans	Employer Normal Cost		Employee Normal Cost		Total Normal Cost	
	PERS Tier IV	TRS Tier III	PERS Tier IV	TRS Tier III	PERS Tier IV	TRS Tier III
Individual Account	5.00	7.00	8.00	8.00	13.00	15.00
Medical Benefits	4.75	4.75	0.00	0.00	4.75	4.75
Other	0.31	0.22*	0.00	0.00	0.31	0.22*
Total	10.06	11.97	8.00	8.00	18.06	19.97

John Smith *Let's go*

*Disability and death benefits cost estimate; however, these were not included in the employer contribution statutes for the new TRS DCR plan.

Because the Legislature is seeking to address the unfunded liability of the Public Employees' and Teachers' Retirement Systems, it is important to understand the cost to employers of that liability. To that end, additional comparison information is enclosed for the retirement systems that includes all costs for all tiers.

If there is any additional information we can provide, please don't hesitate to contact the trustees either directly or through our staff.

Sincerely,

Gail R. Schubert for

Gail R. Schubert, Chair

Enclosure

**COMPARISON OF COSTS FY 2007
DEFINED BENEFIT PLANS and DEFINED CONTRIBUTION PLANS**

Public Employees' Retirement System					
Tier II Defined Benefit Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	9.59	8.38	17.71	6.87	10.90
Health	8.63	6.14	18.07	0	18.07
Other	1.65	0.37	2.22	0	2.22
Total	28.19	14.87	38.08	6.87	28.19
Tier IV Defined Contribution Retirement Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	15.00	0.00	15.00	2.00	6.00
Health	4.78	0.00	4.78	0.00	4.78
Other	0.31	0.00	0.31	0.00	0.31
Total	18.09	0.00	18.09	6.00	10.09
Difference	-2.07	-14.87	-16.94	1.181	-18.13

Teachers' Retirement System					
Tier I-II Defined Benefit Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	12.03	18.67	31.05	8.68	22.37
Health	8.63	8.71	17.54	0	17.54
Other	1.83	0.34	1.87	0	1.87
Total	22.49	28.02	50.48	8.68	(41.78) not included
Tier III Defined Contribution Retirement Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	15.00	0.00	15.00	6.00	7.00
Health	4.78	0.00	4.78	0.00	4.78
Other*	0.21	0.00	0.22	0.00	0.22
Total	19.97	0.00	19.97	6.00	11.97
* Disability and death benefits cost estimate; however, these were not included in the employer contribution estimate for the new TRS DCR plan.					
Difference	-2.47	-28.02	-30.49	-0.68	-33.51

23 January 2008

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

March 1, 2006

SUBJECT: Constitutional issues raised by proposal to terminate right of employees to buy back prior service (CSHB 475(), Work Order No. 24-LS1685\Y)

TO: Representative Paul Seaton
Attn: Katie Shows

FROM: Dan Wayne
Legislative Counsel

Enclosed is the draft you requested today. Whenever possible in the future please make us aware in advance if a request is a "rush" so that we may complete the work requested more quickly.

You should be aware of an issue raised by your request today for changes to the CS for HB 475. Four of the proposed changes affect teachers or public employees who have been or will be refunded retirement contributions made to PERS and TRS before their final retirement from teaching or public employment in Alaska. At issue is whether a person's statutory right to "buy back" time in state service so it can be credited to the years of service needed to become vested or retire under tiers 1, 2, or 3 is protected by Alaska's constitution.

The amendments to AS 14.25.125(c) AS 39.35.375(a), and AS 39.35.385(c), and the repeal of AS 39.35.375(f), all effective July 1, 2010, as proposed, would do away with a currently enjoyed right of teachers and public employees who elect to "cash out" their PERS or TRS contributions to pay back the money in order to have the related years of prior service re-credited to their accrued total years of service for retirement purposes.

Article XII, sec. 7 of the state constitution declares that membership in a state or political subdivision retirement system constitutes 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.¹ While the retirement system may be changed to permit the pension system to make adjustments, the modifications must be reasonable and any

¹ Hammond v Hoffbeck, 627 P.2d 1052 (Alaska 1981).

Representative Paul Seaton

March 1, 2006

Page 2

change that results in a disadvantage to employees must be offset by comparable new advantages.² Rights that are protected by the constitution include not only the amount of benefits, but also the requirements for eligibility.³ By implication, the right to receive credit for years of service upon repayment to the system of contributions previously refunded to the employee is also protected by the constitution.

Please let me know if you have additional questions on this matter or if you would like additional work done on this draft.

DCW:med
06-184.med

Enclosure

² Hoffbeck at 1057.

³ Hoffbeck at 1058.

service credit; amendments to former law governing award of "ad hoc" PRPAs; changes in retiree medical coverage affecting spouses and certain dependents of people receiving survivor benefits; and amendments to the board structure for governance of the systems.

★ [We have found no case law that specifically addresses application to former members of changes in public retirement system statutes that provide for reinstatement of service credit. However, it is arguable that a former member who cashed out the TRS or PERS contribution account after severing the employment relationship that gave rise to rights under the retirement system has no remaining rights that could be impaired by any subsequent change to the retirement system statutes. Furthermore, the reinstatement statutes do not explicitly provide that reinstatement of cashed-out service credit upon reemployment also reinstates a former member to the former member's original "tier" status.²³ While a definitive answer to this issue will only be provided by the Alaska Supreme Court, we believe the amendments are defensible.

We addressed the issue of changes to the former law regarding award of ad hoc PRPAs in the memorandum of advice dated April 20, 2005, advising that legislation that limits the administrator's discretion to award an ad hoc PRPA might be subject to challenge.²⁴ However, in enacting the 105 percent standard, the legislature had evidence that ad hoc PRPAs previously granted by the administrator exercising unlimited discretion had contributed substantially to the unfunded liabilities of the TRS and PERS funds. If the legislation establishing a standard for the administrator's exercise of discretion is challenged, this evidence may support the standard.

Regarding amendments to retiree medical coverage provisions made by sec. 22 to AS 14.25.168(a) and sec. 116 to AS 39.35.535(a), although we have found no case law directly on point, we note that a person who becomes the spouse or a dependent of a retiree's survivor after the retiree's death has no connection with the employment relationship between the retiree and the retiree's TRS or PERS employer that gives rise to any vested right under art. XII, sec. 7, of the Alaska Constitution.²⁵ Therefore, we believe that application of these statutory changes to spouses and dependents of current survivors of deceased members and to new spouses and dependents of eventual survivors

²³ A member's tier status in the current TRS and PERS defined benefit plans determines the age of retirement eligibility and level of medical benefits available upon retirement, based on the law in effect when the member became a member of the pertinent system. TRS currently has two recognized tiers, and PERS has three.

²⁴ 2005 Inf. Op. Att'y Gen.; 663-05-0192 (Apr. 20).

²⁵ New spouses and dependents of survivors who were not dependents of the deceased retiree do not meet the definition of "dependent" of the retiree set out in 26 U.S.C. 152, as required by 26 U.S.C. 401(h). These amendments are made in order for the state's retirement plans to comply with federal plan qualification requirements, and for payment of medical expenses out of the state's trust funds to comply with federal requirements for qualified trusts.

HB

476

Session:
State Capitol, Room 13
Juneau, Alaska 99801
(907) 465-4457 Office
(907) 465-3519 Fax
(800) 928-4457 Toll Free

Alaska House of Representatives
David Guttenberg

Interim:
119 N. Cushman
Suite 211
Fairbanks, Alaska 99701
(907) 456-8172
(907) 456-2490 Fax

District 8

SPONSOR STATEMENT

House Bill 476

“An Act Relating to the Use of Electronically Generated Ballots”

“One person, one vote” is the rock-solid foundation of democracy. There is no more important basic element to free elections. Except for one other thing – the counting of those votes.

Alaskans deserve nothing less than to justifiably hold absolute confidence in their electoral system. They must know with certainty their votes are counted accurately. If necessary, they must be able to engage a reliable system of recounting those votes. The entire process must be transparent and auditable at any stage, from beginning to end. Anything less is simply unacceptable.

But Alaskans’ confidence in mechanical and electronic voting has been shaken. With the advent of electronic voting machines, software glitches, electronic malfunctions, and unexplainable discrepancies have followed. Elections officials have even fielded disturbingly credible accusations of outright fraud in some jurisdictions. Outcomes of elections have been challenged, creating chaos and diverting public funds into expensive investigations. The Governor of Maryland has declared he has no confidence in that state’s entire system of electronic voting machines and directed a return to paper ballots. Investigations and responses short of wholesale replacement of questionable machinery have triggered major expenses. At best, even mere suspicion of inaccuracy or unreliability casts a dark cloud over the entire landscape of electronic vote counts.

This bill seeks to raise that cloud by comparing paper ballots against their electronic tallies. Samples of paper ballots from randomly-selected precincts would be electronically tallied and then hand-counted to confirm the counts’ accuracy. “Spot checks” would maintain the tangible record afforded by paper ballots, while allowing quick and accurate tallying of those ballots. HB 476 ensures paper ballots are truly, accurately, and efficiently tallied.

Alaskans fear “one person, one vote” is in jeopardy in the era of electronic voting and computerized counting. This bill seeks to restore the unassailable credibility Alaskans deserve from and demand of our election system.

I urge your support of HB 476.

Anderson • Cantwell • Chena • Denali Park • Ester • Geist • Goldstream • Healy • Pike
University Campus • University Hills • University West
Representative David Guttenberg@legis.state.ak.us





ROBERT L. EHRLICH, JR.
GOVERNOR

STATE HOUSE
100 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1825
(410) 974-3901
(TOLL FREE) 1-800-811-8338

TTY USERS CALL VIA MD RELAY

February 15, 2006

Chairman Gilles Burger
Maryland State Board of Elections
P. O. Box 6486
151 West Street, Suite 200
Annapolis, MD 21401-0486

Dear Chairman Burger:

As you are aware, there has been widespread national concern about the reliability and security of electronic voting systems. Many states have decertified Diebold voting machines, including those similar to the ones used in Maryland, because certain components were never subjected to federal testing. In light of these recent national decertifications and the Maryland General Assembly's decision to override my vetoes of bills implementing early voting and allowing voters to cast ballots anywhere in the state, I no longer have confidence in the State Board of Elections' ability to conduct fair and accurate elections in 2006.

California, Pennsylvania, and dozens of local jurisdictions recently have decertified or denied certification to the Diebold voting machines pending further testing by federal authorities, citing, among other concerns, the potential for manipulation of election results due to the susceptibility to tampering of the vote-counting memory cards. In response, the Independent Testing Authority (ITA) has been reviewing Diebold voting systems and their electronic components for almost two months and has not released any findings. The State Administrator issued a letter to Diebold requesting daily status reports on the testing, but to my knowledge, no information has been shared with the State Board of Elections members, the Administration or the General Assembly about the implications for Maryland with regard to this testing.

It is imperative that I receive accurate information on the potential consequences that these test results may have on Maryland's ability to conduct fair and accurate elections this year. In discussions with my staff, you have stated that members of the State Board of Elections have not received regular updates on the testing controversy. I believe that it is time for the Board to get aggressive in responding to citizens' concerns over public confidence in the elections system.

I am also disheartened by the unresponsiveness of the State Administrator to the issue of voter verification. It is my personal belief that the voters of Maryland should be allowed to vote a paper ballot or have a voter verification paper-trail to electronic voting as reassurance to voters that their votes are being accurately cast. Therefore, I had requested that the Commission on the Administration of Elections chaired by George Beall, evaluate the potential for the introduction of this technology in Maryland. The Commission intended to rely on the report commissioned by the State Board of Elections and being compiled by Dr. Donald Norris of UMBC. That report was due to be completed in early December. I am sure that you share my disappointment that Dr. Norris' report still has not yet been released and that the Beall Commission has been unable to complete its work.

I also continue to be troubled by the rapidly escalating costs of election administration in Maryland, especially in comparison to fiscal estimates that were prepared for the General Assembly. In 2001, Governor Glendening signed House Bill 1457 requiring the State Board of Elections to select and implement a uniform statewide voting system. At that time, the General Assembly's fiscal note for House Bill 1457 estimated that the total cost would be \$36,890,000. The actual cost, which has been financed by the State Treasurer was \$65,564,674 – an almost 78 % increase from the original cost estimate. However, this misjudgment pales in comparison to the 1000% increase for estimates of the annual maintenance costs for this system. The 2001 fiscal note estimated such maintenance would be \$858,000. For the upcoming fiscal year, the State Board of Elections requested \$9,528,597 for these costs. The cost of Maryland's Diebold voting machines has skyrocketed as our confidence in the system has plummeted.

In 2005, the State Board of Elections provided a fiscal estimate of \$175,000 for the State costs associated with an early voting program, which will now be implemented because the General Assembly overrode my veto. Astonishingly, the State Administrator recently submitted a supplemental budget request that increases these statewide costs from \$175,000 to \$11.5 million. Ironically, the supplemental budget justification provided by the State Administrator focuses on the potential for voter fraud and strikingly echoes the findings of the Beall Commission and the concerns raised in the floor debate by those opposed to the legislation.

These repeated instances of inaccurate fiscal estimates damage the credibility of the State Board of Elections and makes an informed judgment by the General Assembly of the fiscal implications of electronic voting and early voting impossible. The State Board of Elections continues to pursue an electronic fix at a time when electronic technology for voter registration is untested in Maryland and could create more problems than it solves. I do not want to repeat the mistakes made in 2001 when Maryland adopted emerging technology without understanding fully the potential consequences of a new era of electronics in election administration.

At the least, we should re-evaluate our position as of February 2006 – just a mere seven months before the primary election. It is essential the State Board of Elections aggressively advocate its previously adopted position before the General Assembly that any early voting program be deferred until the 2008 election and that legislation be passed to enact this deferral.

I also direct the State Board of Elections provide me with a written report by February 28th that addresses each of the issues cited below:

Diebold Voting Systems

1. What specific electronic components are being tested by the ITA and how does it relate to the Diebold voting systems used in Maryland?
2. Have other jurisdictions decertified or failed to certify any version of the Diebold Optical Scan or Touch Screen (DRE) systems used in Maryland?
3. What does the Maryland Election Law statute provide regarding the certification of election systems? Under what circumstances does it require the State to decertify an elections system?
4. What is the State Board of Elections' contingency plan if the current voting system is decertified, or otherwise found to be incapable of administering a 2006 election free of any charges of compromise?
5. Can new machines be successfully procured for use in the 2006 elections?
6. What are the likely mitigation steps necessary to ensure public confidence in our elections system?

Voter Verification Systems

1. When will the Voter Verification Study conducted by UMBC be available for review?
2. What is the State Board of Elections' plan if the General Assembly requires the Board to purchase a voter verified paper audit trail or optical scan machines to replace the current system in time for the 2006 elections?
3. What voter verification system technologies are compatible with our current voting system?
4. Could we acquire and implement a statewide voter verification system for the 2006 elections?

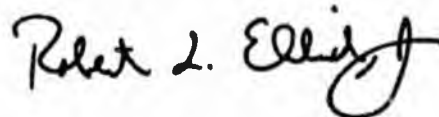
5. What is the estimated cost to the State to acquire a voter verification system for the 2006 elections?
6. How do the costs of a statewide voter verification system compare to the costs of implementing a statewide optical scan system?

Early Voting

1. What is the State Board of Elections' plan for implementing Early Voting for the 2006 elections?
2. What is the position of the county and local boards of election on the implementation of early voting for the 2006 election?
3. What is the State Board of Elections' plan for administering early voting in a secure manner if the State is unable to purchase electronic pollbooks for the 2006 elections?

Finally, I want to express my disappointment with the State Board of Elections' staff. The State Board of Elections is intended to be an independent, non-partisan agency and should not take positions on partisan election law issues. While I expect the Elections Administrator and her staff to testify on all issues relating to the administration of elections as directed by their Board, it has become evident that they have been working primarily on behalf of partisan legislators and their interests and not on the interests of the citizens of Maryland. A recent legislative briefing revealed actions by a staff member of the Board of Elections where he was surreptitiously advocating to override the Governor's veto in direct opposition with the Board's position. The recurring lack of judgment by the State Board of Elections' staff cannot not be tolerated. I urge the State Board of Elections to restore the independence and fairness of the elections office, otherwise we risk losing public confidence in Maryland's election processes.

Very truly yours,



Robert L. Ehrlich, Jr.
Governor

cc: The Honorable William Donald Schaefer, Comptroller
The Honorable Nancy K. Kopp, State Treasurer
The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House
Members, Governor's Commission on the Administration of Elections
Cecilia Januszkiewicz, Secretary of Budget and Management

HB

485

Alaska State Legislature

House of Representatives



State Capitol, Rm. 214
Juneau, Ak 99801-1182
(907) 465-3764

Official Business

COMMITTEE ON RULES Representative Norman Rokeberg, Chairman

Sponsor Statement

House Bill 485 "An Act amending the State Personnel Act to place in the exempt service pharmacists and physicians employed in the Department of Health and Social Services or in the Department of Corrections and corporate income tax forensic auditors employed by the division of the Department of Revenue principally responsible for the collection and enforcement of state taxes who specialize in apportionment analysis and tax shelters of multistate corporate taxpayers and providing for an effective date."

At the request of the Departments of Health and Social Services and Revenue, House Bill 485 has been introduced for consideration. This bill proposing moving two highly professional employees, licensed pharmacists and corporate income tax forensic auditors, into the exempt service in order to more quickly respond to salary and recruitment issues surrounding these positions.

Licensed Pharmacists

Pharmacists are essential to provision of safe and cost-effective medication services, required by state law, but are virtually impossible to recruit under the currently authorized state pay scale limitations.

Within the Department of Health and Social Services pharmacists assure that medications are appropriately dispensed and managed for clinical therapy and treatment provided through the Alaska Pioneer Homes, Alaska Psychiatric Institute, and for people served under the Medicaid program. Clinical functions of department pharmacists include education and consultation to nursing staff and clients, regular review and management of resident and client medications, drug utilization review, pharmacy policies and procedures, safe medication management services, and for assuring timely and cost-effective access to needed medications.

The Department of Health and Social Services has a long and well-documented history of extreme difficulty for recruitment of pharmacists. For example, there were no pharmacist applicants for a position recruited in April, June, and September of 2005. For eight months of fiscal year 2005 the Pioneer Home Pharmacy had only one pharmacist to fill three pharmacist positions – the other two pharmacists had found private sector jobs that paid twice as much per hour. A local market survey showed that non-state employers are paying twice the pharmacist pay offered by the state, augmented with hiring bonuses of up to \$35,000 for a three-year commitment. The federal government is paying wages that are competitive with the private

sector; also offering signing bonuses and forgiveness of student loans. Nationally, the same is true as shown by pharmacist recruitment letters and advertising in national publications.

After careful consideration of this information the Department of Health and Social Services received permission to hire non-permanent exempt pharmacists on an emergency basis providing the ability to immediately offer a competitive wage and fill the two vacant positions on a temporary basis. The ability to be competitive in recruitment and retention of pharmacists requires that the state have the flexibility afforded by providing exempt status for pharmacists.

The Department of Corrections also has a pharmacist position that is difficult to fill and keep staffed. A few years ago, Corrections lost a long-term pharmacist who was offered another job at a higher rate of pay than the State position. Corrections recruited in state and received no applicants so the application process was extended. After two months, a total of three applications were interviewed. One was hired; however, that person resigned approximately seven months later. The position was again posted in and out of state. After six weeks, there were two out-of-state applicants and no in-state applicants. A job offer was made and the applicant moved to Alaska with DOC paying \$3,000 of moving expenses. This current employee has received job offers from private industry and will be leaving state employment unless the state can offer a significant salary increase.

Corporate Income Tax Forensic Auditors

Experienced auditors are utilized to audit corporate income taxes of multi-national companies doing business in Alaska. These audits have grown more complex in recent years due to the use of off-shore companies and tax shelters. Concurrently, the supply of experienced auditors has dwindled because of high demand, the genesis of which was the Enron situation and resulting tightening of accounting rules by the Securities and Exchange Commission. As a result, market salaries of accountants and auditors have increased tremendously.

Over the last several years, the Tax Division of the Department of Revenue has had a demonstrated failure of recruitment efforts, despite efforts to recruit out of state, as well as within Alaska. The department's corporate income tax audit staff has been reduced from ten auditors to two. This threatens the department's ability to collect corporate income tax revenues.

The Department of Revenue conducted a study of auditor salaries which showed that State salaries for experienced income tax auditors is from \$40,000 to \$68,000 below comparable federal jobs.

HB 485 has been introduced to provide a means for the state to be competitive when recruiting and retaining these vital positions.

Your support of this legislation would be appreciated.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2369

February 15, 2006

The Honorable Paul Seaton
Chair State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Re: HB 485, STATE PHARMACISTS/DOCTORS/AUDITOR EXEMPT

Dear Chairman Seaton:

House Bill 485 was referred to the House State Affairs Committee. This bill addresses the hiring difficulties that the State of Alaska has with two very different professional positions. The auditors are in the Department of Revenue, our inability to attract and retain these professionals is having an adverse effect on our ability to collect State revenues and should be a concern to all Alaskans.

Experienced auditors are utilized to audit corporate income taxes of multi-national companies doing business in Alaska. These audits have grown more complex in recent years due to the use of off-shore companies and tax shelters. Concurrently, the supply of experienced auditors has dwindled because of high demand, the genesis of which was the Enron situation and resulting tightening of accounting rules by the Securities and Exchange Commission. As a result, market salaries of accountants and auditors have increased tremendously.

Over the last several years, the Tax Division of the Department of Revenue has had a demonstrated failure of recruitment efforts, despite efforts to recruit out of State, as well as within Alaska. The department's corporate income tax audit staff has been reduced from 10 auditors to 2. This threatens the department's ability to collect corporate income tax revenues.

The Department of Revenue recently conducted a study of auditor salaries which showed that State salaries for experienced income tax auditors are from \$40,000 to \$68,000 below comparable Federal jobs.

Letter to Chairman Seaton
February 15, 2006
Page 2

I respectfully request that HB 485 be scheduled for a hearing in the House State Affairs Committee at your earliest convenience.

If you need assistance or information, please contact Jerry Burnett at 465-2302.

Very truly yours,

Bill Corbus

William A. Corbus
Commissioner

Alaska Pioneer Homes

Current Base Salary: Temporary Exempt Positions

Three pharmacists-AK Pioneer Homes: \$44.66 hr.

Previous Base Salary:

Two pharmacists, range 22C, \$33.79 hr (supervisory)

One pharmacist, range 21C, \$31.39 hr (general govt.)

Hourly Pay for Similar Positions: July 2005

Clinical pharmacist, Providence AK Med Ctr \$58.45

Medical Arts Pharmacy, Anchorage \$44.75-\$67.12

Carrs, Anchorage \$48.50

Costco, Anchorage \$49.00

Walmart, Anchorage \$50.00

Fred Meyer, Anchorage \$47.75

Recruitment

The current range 22 pay scale is well below salary that pharmacists in the private sector earn.

The benefit packages available through other employers are comparable to the state benefit package, especially tier 4.

Union salaries elsewhere are often reevaluated every six months and adjusted for the prevailing wage for the position

Hiring is very competitive. There are more jobs available than pharmacists in the state.

Some companies are paying signing bonuses for a three-year commitment.

The Federal Government also offers signing bonuses and will forgive student loans.

Information Provided by: Department of Health & Social Services

FY07 Governor PS Scenario - Pharmacists

RDU TITLE	COMI ONENT	PCN NO	PCN STATUS	JOB TITLE	Status	Location	Location	BU	RANGE	STE P1	STE P2	FY07 Budgeted Salary
Alaska Pioneer Homes	Pioneer Homes	02-7916	Existing	Clinical Pharmacist	Full-Time	EBA	Anchorage	SS	22 D	E		108,083
Alaska Pioneer Homes	Pioneer Homes	02-7915	Existing	Pharmacist	Full-Time	EBA	Anchorage	XE	29 A			132,768
Alaska Pioneer Homes	Pioneer Homes	02-7947	Existing	Pharmacist	Full-Time	EBA	Anchorage	XE	29 A			132,768
Behavioral Health	Alaska Psychiatric Institute	06-5258	Existing	Clinical Pharmacist	Full-Time	EBA	Anchorage	GP	22 M			133,404
Health Care Services	Medical Assistance Admin.	06-7048	Existing	Pharmacist	Full-Time	EBA	Anchorage	GP	21 C			96,663
Health Care Services	Medical Assistance Admin	06-4037	Existing	Medicaid Pharm Program Manager	Full-Time	EBA	Anchorage	GP	22 L			127,916
Public Health	Epidemiology	06-1926	Existing	Pharmacist	Full-Time	EBA	Anchorage	SS	21 J	K		113,728

Information Provided By: Department of Health + Social Services

Department of Corrections

Job Class	Range	Step	Hourly Rate	Monthly Salary	Bargaining Unit
Pharmacist	21	F	\$35.02	\$5,690	Supervisory
			Private Sector Hourly Rate		
			\$58.00		
			Contract Hourly Rate		
			\$72.00/\$80.00		

The Department of Corrections has had recruitment and retention issues with the single Pharmacist position in Inmate Health Care. During recruitment efforts numerous calls were received from potential applicants. These potential applicants all stated that they were not interested in the position at the rate of a range 21. Exempt status would enable the State of Alaska to compete with private sector wages for the profession and would help the State to recruit applicants in-state and retain an employee in the position.

Information on this sheet provided by the Department of Corrections

STATE OF ALASKA

DEPARTMENT OF REVENUE

Tax Division

Frank Murkowski, Governor

*State Office Building
PO Box 110420
Juneau, AK 99811-0420
907.465.3692*

*550 W Seventh, Suite 500
Anchorage, AK 99501-3566
907.269.6620*

www.tax.state.ak.us

February 16, 2006

Janet S Seitz
House Rules Committee Assistant
Room 214 Capitol Building
Juneau, AK 99801

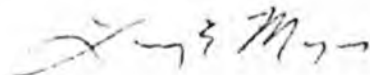
Dear Ms Seitz,

You have asked for the current pay and union involved for the Forensic Auditors in HB 485. Department of Revenue requests three brand new positions under this bill for which there would be no union affiliation. We respectfully request that the salary be competitive and market driven; at a higher level than the current auditor compensation.

Our most senior auditors are compensated between \$60,000 and \$86,600 at a salary range 22. Recent recruiting efforts coupled with salary studies have shown that the division is not competitive in the market place.

Exempt service positions would authorize a salary override that would provide competitive salary equal to the forensic auditor expertise.

Respectfully,



Larry E Meyers
Deputy Director
Tax Division

STATE OF ALASKA

DEPARTMENT OF REVENUE

Tax Division

Frank Murkowski, Governor

State Office Building
PO Box 110420
Juneau, AK 99811-0420
907.465.3692

550 W Seventh, Suite 500
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www.tax.state.ak.us

February 16, 2006

Janet S Seitz
House Rules Committee Assistant
Room 214 Capitol Building
Juneau, AK 99801

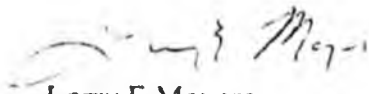
Dear Ms Seitz,

You have asked for the current salary, range and union affiliation for our seven (7) vacant Corporate Income Tax Auditor positions.

The Tax Division has two (2) Corporate Income Tax Auditor IV positions within the General Government bargaining union. They are salary range 22 with compensation between \$60,000 and \$86,600.

The remaining five (5) auditor vacancies are Corporate Income Tax Auditor I positions. These positions are also in the General Government bargaining union. They are salary range 16 with compensation between \$40,248 and \$49,600.

Respectfully,



Larry E Meyers
Deputy Director
Tax Division

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 485
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title State Pharmacist/Doctors/Auditor Exempt RDU Corp. Bus & Prof Licensing (117)
 Component Corp. Bus & Prof Licensing
 Sponsor House Rules By Request
 Requester State Affairs Component No. 2360

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	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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)

This legislation amends AS 39.25.110(13) to add pharmacists and physicians employed in the departments of Health & Social Services or Corrections, among others, to the list of occupations appointed to exempt service. It has no impact on the operations of the division.

Prepared by: Katherine Mason, Administrative Manager Phone (907) 465-2272
 Division: Corporations and Licensing Date/Time 2/21/06 6:25 PM
 Approved by: William C. Noll, Commissioner Date 2/21/2006
 Agency: Commerce, Community and Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: HB 485
 Bill Version: _____
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title State Pharmacists/Doctors/Auditor Ext RDU Tax and Treasury
 Component Tax
 Sponsor RLS by Request
 Requester (H) STA Component No. 2476

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	0.0	0.0	0.0	0.0	0.0	0.0

*** Indeterminate

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	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Tax Division requests three forensic auditor positions with an indeterminate annual cost. The position descriptions and skill sets would include strong audit backgrounds, proven management and excellent communication skills. While current positions may include one of these skill sets, the combination of all three at the exempt level would meet the audit mission of the Tax Division.

The Tax Division has recruited for current audit staff at the lower levels of the auditor series with no effective success. Our current audit staff maintains an 80% vacancy due to our recruitment difficulties with ongoing continuous recruitment for new auditors.

Prepared by: Larry Meyers, Deputy Director
 Division: Tax Division
 Approved by: Jerry Burnett
 Agency: Department of Revenue

Phone 269-6623
 Date/Time 2/21/06 11:30 AM
 Date 2/21/2006

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB 485

ANALYSIS CONTINUATION

This request for three additional positions would be funded by savings related to current vacancies and would not increase the financial burden this fiscal year. The division requests three new exempt positions and does not plan to transfer or reclass existing union positions. The attached spreadsheet reflects what auditors are in place and what the division envisions in order to be competitive nationwide.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB495
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An act relating to Exempt Pharmacists." RDU Inmate Health Care
 Component Inmate Health Care
 Sponsor Rules Committee
 Requester Governor Component No. 705

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	30.7	30.7	30.7	30.7	30.7	30.7
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	30.7	30.7	30.7	30.7	30.7	30.7

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	30.7	30.7	30.7	30.7	30.7	30.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	30.7	30.7	30.7	30.7	30.7	30.7

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)

This legislation will change current classified pharmacist positions to exempt service. The Department of Corrections continues to experience difficulties with recruiting and/or maintaining a filled pharmacist position. Exempt state pharmacists will allow the Department to be competitive with non-state organizations in the hiring and retention process.

In a recent market study, the Department of Health and Social Services found that pharmacists earn considerably more in non-state positions, making it nearly impossible to retain pharmacists or locate new hires. An informal survey of wages at non-state pharmacies during the summer of 2005 showed wages to range from a starting wage of \$41.82 to \$58.45 per hour depending on experience. The current starting wage for a classified pharmacist (Range 21) in the South Central Region is \$29.61 per hour.

Prepared by: Sharleen Griffin, Director Phone (907) 465-3339
 Division Administrative Services Date/Time 2/16/06 3:43 PM
 Approved by: Portia C.K. Parker, Deputy Commissioner Date 2/16/2006
 Agency Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB485-DHSS-DAPH-02-16-06
 () Publish Date: _____
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): _____

Title PLACE PHARMACISTS IN THE EXEMPT SERVICE

RDU Alaskan Pioneer Homes

Component Pioneers Homes

Sponsor HOUSE (RLS) BY REQUEST

Requester HOUSE (STA)

Component No. 2671

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	30.2	30.2	30.2	30.2	30.2	30.2
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	30.2	30.2	30.2	30.2	30.2	30.2
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	25.2	25.2	25.2	25.2	25.2	25.2
1037 GF/Mental Health						
Other(Receipt Supported Services)	5.0	5.0	5.0	5.0	5.0	5.0
Other(Specify Type-do not abbreviate)						
TOTAL	30.2	30.2	30.2	30.2	30.2	30.2

Estimate of any current year (FY2006) cost: _____

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)

This bill would change currently classified Pharmacist positions to exempt. This action will allow the department the ability to compete with the current limited job market for Pharmacist positions. The department continues to experience difficulties in recruiting and/or keeping filled Pharmacist positions.

There are two primary reasons supporting this change:

1) In a recent market study, the department found that pharmacists earn considerably more in non-state positions, making it impossible to retain pharmacists or locate new

Prepared by: Sherry Hill, Special Assistant
 Division: Office of the Commissioner
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-1618
 Date/Time 02/16/2006
 Date 02/16/2006

FISCAL NOTE
FN #

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. HB485-DHSS-DAPH-02-16-06

ANALYSIS CONTINUATION

hires. An informal survey of wages at non-state pharmacies during the summer of 2005 showed wages to range from a starting wage of \$41.82 to \$58.45 depending on experience. If state pharmacists are exempt the department is able to compete with the non-state pay by hiring exempt staff.

2) Licensed Pharmacists are (specialized) health professionals; the nature of their work better fits in the exempt service category.

Licensed pharmacists are required for dispensing medicines related to clinical treatment and therapy provided through divisions of Pioneer Homes, Health Care Services, Behavioral Health, and Public Health.

Clinical functions include education and clinical consultation to nursing staff and residents, regular review of resident medical information, maintenance of drug formularies and development and maintenance of policies and procedures regarding use and storage of medications in the pharmacy in all six Pioneer Homes, Alaska Psychiatric Institute, Health Care Services, and Public Health epidemiology.

The department has estimated the cost of changing the existing budgeted positions to exempt status using Range 29 as an example. Range 29 starting hourly rate is \$44.64/hour. Non exempt pharmacists are currently budgeted at Range 21 or 22.

Summary of Cost Analysis of Changing DHSS Pharmacists to Exempt

RDU	Component	# Positions	GF	Total
Alaska Pioneer Homes	Pioneer Homes	3	25.2	30.2
Behavioral Health	Alaska Psychiatric Institute	2	20.0	20.0
Health Care Services	Medical Assistance Admin	1	34.0	68.0
Public Health	Epidemiology	1	0	17.2
Total Estimate			79.2	135.4

Note: The estimates vary depending on the existing steps of positions. Also, the Pioneer Homes have already budgeted for two of their positions at a Range 29 in FY07 so there is less of an increase in this component.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB485-DHSS-DHCS-02-18-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title: PLACE PHARMACISTS IN THE EXEMPT SERVICE

RDU: Health Care Services

Component: Medical Assistance Admin.

Sponsor: HOUSE (RLS) BY REQUEST

Requester: HOUSE (STA)

Component No.: 242

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	68.0	68.0	68.0	68.0	68.0	68.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	68.0	68.0	68.0	68.0	68.0	68.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	34.0	34.0	34.0	34.0	34.0	34.0
1003 GF Match	34.0	34.0	34.0	34.0	34.0	34.0
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	68.0	68.0	68.0	68.0	68.0	68.0

Estimate of any current year (FY2006) cost: _____

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)

This bill would change currently classified Pharmacist positions to exempt. This action will allow the department the ability to compete with the current limited job market for Pharmacist positions. The department continues to experience difficulties in recruiting and/or keeping filled Pharmacist positions.

There are two primary reasons supporting this change:

1) In a recent market study, the department found that pharmacists earn considerably more in non-state positions, making it impossible to retain pharmacists or locate new

Prepared by: Sherry Hill, Special Assistant

Phone 465-1618

Division: Office of the Commissioner

Date/Time 02/16/2006

Approved by: Karleen Jackson, Commissioner

Date 02/16/2006

Agency: Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2006 LEGISLATIVE SESSION

BILL NO. HB485-DHSS-DHCS-02-16-06

ANALYSIS CONTINUATION

hires. An informal survey of wages at non-state pharmacies during the summer of 2005 showed wages to range from a starting wage of \$41.82 to \$58.45 depending on experience. If state pharmacists are exempt the department is able to compete with the non-state pay by hiring exempt staff.

2) Licensed Pharmacists are (specialized) health professionals; the nature of their work better fits in the exempt service category.

Licensed pharmacists are required for dispensing medicines related to clinical treatment and therapy provided through divisions of Pioneer Homes, Health Care Services, Behavioral Health, and Public Health.

Clinical functions include education and clinical consultation to nursing staff and residents, regular review of resident medical information, maintenance of drug formularies and development and maintenance of policies and procedures regarding use and storage of medications in the pharmacy in all six Pioneer Homes, Alaska Psychiatric Institute, Health Care Services, and Public Health epidemiology.

The department has estimated the cost of changing the existing budgeted positions to exempt status using Range 29 as an example. Range 29 starting hourly rate is \$44.64/hour. Non exempt pharmacists are currently budgeted at Range 21 or 22.

Summary of Cost Analysis of Changing DHSS Pharmacists to Exempt

RDU	Component	# Positions	GF	Total
Alaska Pioneer Homes	Pioneer Homes	3	25.2	30.2
Behavioral Health	Alaska Psychiatric Institute	2	20.0	20.0
Health Care Services	Medical Assistance Admin	2	34.0	68.0
Public Health	Epidemiology	1	0	17.2
Total Estimate			79.2	135.4

Note: The estimates vary depending on the existing steps of positions. Also, the Pioneer Homes have already budgeted for two of their positions at a Range 29 in FY07 so there is less of an increase in this component.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB485-DHSS-DBH-02-16-06

Revision Date/Time (Note if correction): _____

() Publish Date: _____
 Dept. Affected: Health & Social Services

Title PLACE PHARMACISTS IN THE EXEMPT SERVICE

RDU Behavioral Health

Component Alaska Psychiatric Institute

Sponsor HOUSE (RLS) BY REQUEST

Requester HOUSE (STA)

Componen: No. 311

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	20.0	20.0	20.0	20.0	20.0	20.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	20.0	20.0	20.0	20.0	20.0	20.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health	20.0	20.0	20.0	20.0	20.0	20.0
Other()						
Other(Specify Type -do not abbreviate)						
TOTAL	20.0	20.0	20.0	20.0	20.0	20.0

Estimate of any current year (FY2006) cost: _____

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

POSITIONS

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ANALYSIS: (Attach a separate page if necessary)

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