

ALASKA LEGISLATURE COMMITTEE FILES, 2005-2008 86 / 2

11752 SENATE HEALTH, EDUCATION & SOCIAL SERVICES



Alaska State Legislature

Please enter into the record my testimony to the Senate Health Education & Social Service
committee name

Committee on SB 24, dated 3-7-05
bill # / subject public hearing date

See attached 5 pages

Signed: Daniel Young
Testifier
SELF AS CITY OF KENAI EMPLOYEE
Representing (optional)
PO Box 2708
Address
KENAI AK 99611
Phone number

March 7, 2005

Attention Gary Stevens & Committee

Re: SB24

Dear Mr. Stevens & Committee:

My name is Dan Young & I work for the City of Kenai, Dept. of Public Works, water & sewer foreman, where I have been employed for 25 years.

I am a tier 1 & joined the "Retirement-Back to Work Program" last June (2004), after months of very careful research, and consultation with PERS & the City of Kenai. The opportunity to join this program was to "sunset" (end) in June of 2005 - NOT the "retirement-rehire, back-to-work" benefits program. This program was made very clear to us by PERS counselors, as well as the City of Kenai. There were only a few City employees who were even eligible to accept this retirement-rehire package.

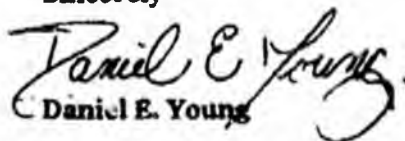
I had to cash-in ALL of my \$30,000 retirement stocks, with the City of Kenai, to buy my 4 years of Coast Guard time to add to my PERS retirement, which was encouraged by the PERS consultant. Every dime I had in the City of Kenai retirement program has gone to the State of Alaska PERS system.

The only reason, I considered this program in the first place, was to try and get my house paid off before my 75th birthday.

NEVER, would I, or anyone else on their right mind, of considered entering this PERS-retirement-rehire system for only 12 months of PERS benefits.

It will be an extreme financial hardship to lose this retirement-rehire benefit. PLEASE understand I had to make many life altering decisions to enter this PERS retirement-rehire program that was presented as a lifetime offer & NOT an offer for 12 months.

Sincerely



Daniel E. Young

City of Kenai
Dept. of Public Works
Water-Sewer Foreman



CITY OF KENAI

" Oil Capital of Alaska "

210 FIDALGO AVE., SUITE 200 KENAI, ALASKA 99811-7794
TELEPHONE 907-283-7535
FAX 907-283-3014



January 6, 2005

Governor Frank Murkowski
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

RE: CITY OF KENAI RESOLUTION NO. 2005-02 - SUPPORTING LEGISLATION TO CONTINUE THE REHIRED RETIREE EMPLOYMENT WAIVER PROGRAM ENACTED BY HB242 IN 2001 FOR THOSE CURRENTLY ENROLLED.

Dear Governor Murkowski:

Enclosed is a copy of the City of Kenai Resolution No. 2005-02 which was unanimously passed at the January 5, 2005 meeting of the Kenai City Council.

Through their resolution, the Council has stated its concern the interpretation of HB242 has changed since the bill was enacted; the provisions of the bill, through information provided in writing by the Division of Retirement and Benefits, was used as a basis for negotiating agreements by the City of Kenai, its employees, as well as other public employees throughout the state; these negotiations were done in good faith; and, the stated terms and conditions should be honored.

The City of Kenai supports legislation to continue the Rehired Retiree Employment Waiver Program enacted by HB242 in 2001 for those currently enrolled in the program and also supports such legislation to be acted upon early in the 2005 session.

If you have any questions, please contact this office.

CITY OF KENAI

Carol L. Freas
City Clerk

Clf

Enclosure

cc: 24th Alaska State Legislature

Suggested by: Administration

City of Kenai

RESOLUTION NO. 2006-02

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA SUPPORTING LEGISLATION TO CONTINUE THE REHIRED RETIREE - EMPLOYMENT WAIVER PROVISION OF HB242 FOR THOSE MEMBERS CURRENTLY ENROLLED UNDER THIS PROVISION.

WHEREAS, in 2001 the State Legislature enacted HB242 which provided that retired PERS members could be rehired by PERS employers and continue to receive normal retirement benefits; and,

WHEREAS, the July 1, 2005 sunset provision in the bill was interpreted by the Alaska Division of Retirement and Benefits to be the final date to be reemployed under this program; and,

WHEREAS, the Division of Retirement and Benefits further stated in writing that "any member who is participating in the program and continues employment after July 1, 2005 will be allowed to continue participating in the plan"; and,

WHEREAS, the City and its eligible members relied upon the information provided by the Division of Retirement and Benefits; and,

WHEREAS, agreements with employees were negotiated in good faith and the stated terms and conditions should be honored.

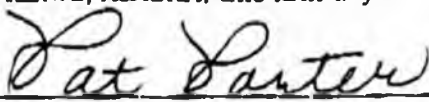
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that:

Section 1: The City Council of the City of Kenai supports legislation that will continue the Rehired Retiree - Employment Waiver program enacted by HB242 in 2001, for those members currently enrolled in that program.

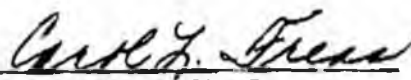
Section 2: That such legislation will be acted on early in the 2005 session.


Section 3: That this resolution be sent to Governor Murkowski and all members of the Alaska State Legislature.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this fifth day of January, 2005.


PAT PORTER, MAYOR

ATTEST:


Carol L. Freas, City Clerk

Approved by Finance: 
(12/21/2004) hl

December 14, 2004

Ray Matiashowski, Commissioner
State of Alaska, Dept. of Administration
P.O. Box 110203
Juneau, AK 99811-0203

Subject: HB 242 Rehired Retiree - PERS Employment Waiver

Dear Commissioner Matiashowski,


The PERS employment waiver option allows a retiree to reemploy with a PERS employer and continue to receive PERS retirement benefits.

Your letter of November 3, 2004 conveying the State Attorney General Office's opinion that employees enrolled under this PERS waiver program will not be allowed to continue with this program after June 30, 2005 has caused much distress for the six employees working for the City of Kenai that are participating in the program.

The State of Alaska, Division of Retirement and Benefits assured the City of Kenai and its employees in writing that "Any member who is participating in the program and continues employment after 7/1/2005 will be allowed to continue participating in the plan." We expect to continue working under the PERS waiver program as it was described to us by the state.

- The July 1, 2005 date in HB 242 was the date set when employees could no longer enroll in the PERS waiver program. It doesn't make sense to allow employees to enroll in the PERS waiver program right up to the same date they would be required to rejoin the PERS on July 1, 2005. If the intent were to discontinue benefits to PERS waiver participants on June 30, 2005 the legislature would have stopped program enrollment long before July 1, 2005.
- The stated intent of this legislation is to attract and retain a strong skilled work force. It has been very successful for the City of Kenai, and also saved the city money, and will save PERS money in the long run.
- The City of Kenai has 6 of the 308 statewide employees participating in this PERS waiver program. Two are Department Heads, three are Foreman, and one is a Fire Captain. A timely resolution to this problem is very important. The city is starting our budget process and this has an impact on the budget and possible hiring concerns of replacing very experienced supervisors.

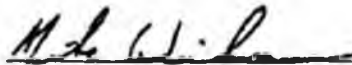
- Employees made PERS decisions based on Alaska Division of Retirement and Benefits' assurance that the current participants in the PERS waiver program would continue. Joint Survivor Option, Dental-Vision-Audio, and Long-Term Care Insurance decisions may have been different if employees had been advised they could no longer participate in the PERS waiver program after July 1, 2005. Many would have taken the 100% benefit instead of the Joint Survivor Option if they knew it was for only for a short period of time and not chosen to pay for the Dental-Vision-Audio option if they thought they might be returning to the city's insurance plan.
- Employees have made financial, personal, and life-altering decisions based on the Alaska Division of Retirement and Benefits representing that the PERS waiver program would continue. Investments, contracts, loans, and retirement decisions have been based on the PERS waiver program continuing. Discontinuing the waiver program will significantly affect employee's futures.
- If participating employees who elected the PERS waiver option were discontinued on July 1, 2005, the results would be confusing. The second time an employee retires do they get to make all new benefit decisions? When the employee goes off PERS medical insurance and back on the employers insurance will new deductibles start? Does the time in the waiver program count as time before the cost of living increase goes into affect?
- On May 5, 2004 the City of Kenai passed a resolution limiting future opt-out PERS participants to 5 years in the PERS waiver option program. The city interpreted HB 242 and was told by Alaska Division of Retirement and Benefits that the PERS waiver option program would continue for enrolled participants beyond July 1, 2005.



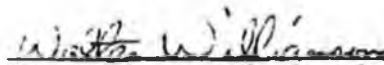
Keith Kornelis, Public Works Manager
1-907-283-8232



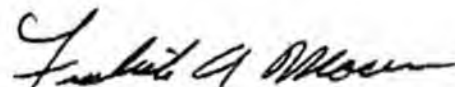
Scott Walden, Fire Chief
1-907-283-7666



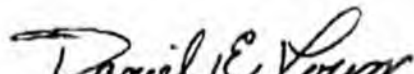
Mike Wichman, Shop Foreman



Walt Williamson, Fire Captain



Fred Macvie, STP Foreman



Dan Young, W & S Foreman

DISTRICT OFFICE
BERING STRAIT SCHOOL DISTRICT

P.O. BOX 225
 UNALAKLEET, ALASKA 99584-0225
 (907) 624-3011
 (907) 624-3099 FAX
 http://www.bsad.org

7 March 2005

Senator Fred Dyson, Chr
 Senate HESS

Re: Testimony in support of SB24/31 - John A. Davis

BREYF MIBSOM

DIONEDE

ELIM

GAMBELL

GOLOVIN

KOYUK

SAINT MICHAEL

SAVOONGA

SHAKTOOLIK

SHISHMAREF

STEDDINS

TELLER

UNALAKLEET

WALEB

WHITE MOUNTAIN

Mr. Chairman and Committee Members thank you for the opportunity to address this committee in support of the retire/rehire bills before you today.

My name is John Davis and I am the President of the Alaska Association for School Administrators (AASA) and am the Superintendent of the Bering Strait School District. Among my duties, I am responsible for the hiring of staff to fill the vacancies that open each year in our school district.

The retired/rehired law past several years ago has worked well for our district and many other districts as reported to me by fellow Superintendents. The loss of this provision would adversely affect our ability to attract and maintain senior staff in teaching, administration and a variety of support positions in our school district. I am urging you to reauthorize this measure.

I have made an effort to listen to the criticisms of this bill. For many districts, it has done exactly as the original authors intended. It has slowed the exodus of the current generation of long-term employees. Districts have saved time on training, students have benefited from experienced teachers, and districts have saved money.

The most significant criticism I have heard is that it will increase cost to the retirement systems. Based on the February 2005 Mercer report produced for the Legislature, this is minimally accurate and should not prevent the reauthorization of this effort. The Mercer Report states the cost to TRS for each retired person is approximately .2% or \$1000 a year (pg 2). Based on the report, the cost to the PER system is approximately \$290 (pg 3). I believe the benefit we gain by keeping such seasoned educators and employees makes this a tolerable cost and beneficial to Districts and the State of Alaska.

However, I want to offer a solution I hope has already been placed on the table. Our District would still participate if required cover the excess cost to each system. In other words, we would support the cost of a \$1000 for

each educator we rehire and \$290 for each support staff we rehire. We may share this with retired/rehired employees or ask them to cover the cost.

This provision has not been used extensively and the prospects of it being used will remain limited. However, it is a part of an overall strategy being used by school districts to increase productivity, reduce costs and most importantly, provide our students and programs with very talented and knowledgeable people. We are not required to hire everyone and no one under this provision attains a benefit beyond what we agree. There is no tenure and no guarantee to a job year after year.

Senators, this is a good deal for everyone and I urge your continued support. Thank you for you allowing me to testify. I would be happy to answer any questions.

John A. Davis
7 March 2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB024-DOA-RB-3-4-05
() Publish Date: 3/7/2005

Revision Date/Time (Note if correction): n:)
Title: An act relating to reemployment of retired teachers and public employees
Sponsor: Sen. Gary Stevens
Requester: Senate HES
Dept. Affected: Statewide
RDU: Statewide
Component: Statewide
Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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 (FY2005) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will extend the Retiree Return to Work Program (HB 242 2001) for teachers and public employees scheduled to sunset on July 1, 2005. SB 24 would extend this program to continue until to July 1, 2009.

For the Public Employees' Retirement System, the actuarial consultant has computed this legislation to have no effect on employer contribution rates until the number of members electing the waiver reaches 500. For the Teacher's Retirement System, our actuarial consultant has computed this legislation to increase TRS employer contribution rate with only 100 participants. A detailed analysis is attached.

There is language contained in this bill that addresses the costs for extending this program by adding a percentage amount to the employers' past service rate.

Prepared by: Melanie Millhorn, Director Phone 465-4408
Division: Retirement and Benefits Date/Time 3/7/05 8:52 AM
Approved by: Mike Tibbles, Deputy Commissioner Date 3/7/2005
Agency: Department of Administration

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. SB024-DOA-RB-3-4-05

ANALYSIS CONTINUATION

Examples of impact on PERS and TRS employers are as follows:

Number of Members Electing the Waiver	Increase in Average PERS Employer Contribution Rate	Number of PERS Members Currently On Waiver	Increase In Average TRS Employer Contribution Rate	Number of TRS Members Currently On Waiver
100	negligible	211	0.02%	124
500	0.01%		0.10%	
1,000	0.02%		0.20%	

PERS	Salaries (in 000's)	rate increase %	Annual cost (in 000's)
State of Alaska	732,429.5	0.01%	73.2
Juneau Borough and School District	50,947.0	0.01%	5.1
Anchorage Municipality and School District	194,930.9	0.01%	19.5
University of Alaska	113,096.2	0.01%	11.3
Fairbanks Borough and School District	44,610.4	0.01%	4.5
North Slope Borough and School District	58,321.6	0.01%	5.8
Mat-Su Borough and School District	27,578.6	0.01%	2.8
All other PERS employers	238,256.3	0.01%	23.8
Total	\$ 1,460,170.5		146.0

(Example of impact of .01% increase:)

TRS	Salaries (in 000's)	rate increase %	Annual cost (in 000's)
All School Districts TRS salaries	525,614.0	0.02%	105.1
State of Alaska TRS salaries	7,015.9	0.02%	1.4
Total			106.5

(Example of impact of .02% increase:)

Total Annual Cost to PERS and TRS 252.5

AS 24 08.036 FISCAL NOTES ON BILLS AFFECTING STATE RETIREMENT SYSTEMS, requires an additional analysis of the long term and short term costs to the state if a bill is adopted, as well as the impact of the bill on the actuarial soundness of the funds. The annual cost is as indicated above.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB024-DOA-RB-3-4-05
 () Publish Date: 3/7/2005

Revision Date/Time (Note if correction): n: _____ Dept. Affected: Statewide
 Title: An act relating to reemployment of retired RDU: Statewide
teachers and public employees Component: Statewide
 Sponsor: Sen. Gary Stevens
 Requester: Senate HES Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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 (FY2005) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time					
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

This bill will extend the Retiree Return to Work Program (HB 242 2001) for teachers and public employees scheduled to sunset on July 1, 2005. SB 24 would extend this program to continue until to July 1, 2009

For the Public Employees' Retirement System, the actuarial consultant has computed this legislation to have no effect on employer contribution rates until the number of members electing the waiver reaches 500. For the Teacher's Retirement System, our actuarial consultant has computed this legislation to increase TRS employer contribution rate with only 100 participants. A detailed analysis is attached

Prepared by: Melanie Millhorn, Director
 Division: Retirement and Benefits
 Approved by: Mike Tibbles, Deputy Commissioner
 Agency: Department of Administration

Phone: 465-4408
 Date/Time: 3/7/05 12:57 PM
 Date: 3/7/2005

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. SB024-DOA-RB-3-4-05

ANALYSIS CONTINUATION

Examples of impact on PERS and TRS employers are as follows:

Number of Members Electing the Waiver	Increase in Average PERS Employer Contribution Rate	PERS Members Currently On Waiver	Increase in Average TRS Employer Contribution Rate	TRS Members Currently On Waiver
100	negligible	211	0.02%	124
500	0.01%		0.10%	
1,000	0.02%		0.20%	

Note: The fiscal amount noted below represents the number of retirees presently enrolled for the period of 2001 to November 30, 2004. Should the membership levels increase the fiscal cost would increase based on the table shown above.

PERS	Salaries (in 000's)	rate increase %	Annual cost (in 000's)
State of Alaska	732,429.5	0.00%	0.00
Juneau Borough and School District	50,947.0	0.00%	0.00
Anchorage Municipality and School District	194,930.9	0.00%	0.00
University of Alaska	113,096.2	0.00%	0.00
Fairbanks Borough and School District	44,610.4	0.00%	0.00
North Slope Borough and School District	58,321.6	0.00%	0.00
Mat-Su Borough and School District	27,578.6	0.00%	0.00
All other PERS employers	238,256.3	0.00%	0.00
Total	\$ 1,460,170.5		0.00

Reflects membership of 211 which results in a negligible cost.

TRS	Salaries (in 000's)	rate increase %	Annual cost (in 000's)
All School Districts TRS salaries	525,614.0	0.02%	105.12
State of Alaska TRS salaries	7,015.9	0.02%	1.40
Total			106.53

Reflects membership of 124 which results in a .02% increase in employer rates.

Total Annual Cost to PERS and TRS 106.53

AS 24.08.036 FISCAL NOTES ON BILLS AFFECTING STATE RETIREMENT SYSTEMS, requires an additional analysis of the long term and short term cost to the state if a bill is adopted, as well as the impact of the bill on the actuarial soundness of the funds. The annual cost is as indicated above.



Alaska Legislative Report

Results of the Retiree Return Program

Enacted by HB 242/SB 149 in 2001 on
The Public Employees' Retirement System and
The Teachers' Retirement System

Alaska Division of Retirement and Benefits



February 2005

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**ALASKA LEGISLATURE REPORT
RESULTS OF THE RETIREE RETURN PROGRAM
ENACTED BY HB 242/SB 149 IN 2001 ON
THE PUBLIC EMPLOYEES' AND TEACHERS' RETIREMENT SYSTEMS**

HB 242 Background

In 2001 the Twenty-First Legislature enacted HB 242, which, among other things, amended the statutes to allow certain Public Employees' (PERS) and Teachers' Retirement System (TRS) members who retired with a normal retirement to return to work, continue to receive normal retirement benefits, and waive participation in the retirement systems.¹ Once participation was waived, no contributions were required from the employer or the employee. This legislation is scheduled to sunset on July 1, 2005. Prior to the passage of this legislation members who retired and then reemployed in a PERS or TRS participating position would have their retirement benefit stopped during the period of reemployment. The member would accrue an additional pension benefit for the second period of employment.

HB 242 was introduced April 17, 2001 in House State Affairs Committee. In his introduction to the bill, Roger Wortman, Staff to Representative Pete Kott, Alaska State Legislature, noted that baby boomers were about to retire en masse in the years 2008-2009. This would leave a big void in the state work force. Some of those shortages would be critical, such as in education and law enforcement. He explained that HB 242 provided a "carrot" to retain employees after they are eligible to retire.

Other testimony at the hearing indicated:

- HB 242 was a component of a workforce development initiative that the state and a number of other employers undertook in an effort to address workforce shortages already being experienced.
- Employers would have the opportunity to offer less salary to returning retirees.
- The ability to rehire experienced teachers would be a tremendous asset to every school district.
- Alaska has needed to recruit 12,000 to 13,000 new teachers each year but at the largest job fair that year there were fewer than 300 applicants.

Testimony at the House Finance Committee on April 23, 2001 added the following:

- Concern was expressed on the affect on entry-level workforce. New graduating teachers could lose in the choice between experienced retired teachers.
- A 3-year sunset (later amended to 5 years) was proposed to allow assessment of any unintended consequences of the program.
- Alaska is only producing 20-30 percent of the teachers needed to fill its teaching positions. This is not sufficient to meet the need.
- Department of Fish and Game had lost 25 biologists in their commercial fish division within 6 months to jobs with the federal government. The retiree return program would allow them to keep some of these employees.
- The Municipality of Anchorage testified to a "brain drain" as employees leave the municipality and 25% of their police officers were eligible for retirement. Retention of these employees was important to them.

¹ AS 14.25.040; AS 14.25.043; AS 39.35.120; AS 39.35.150

SB 149 Background

A similar bill affecting the Teachers' Retirement System (TRS) was SB 149. Testimony was taken on this bill at a Senate Health, Education and Social Services Committee meeting on April 20, 2001. Besides not including members of the Public Employees' Retirement System (PERS), SB 149 also required an annual report be sent to the Legislature regarding the impact of the reemployment of retired teachers on the retirement programs. A copy of HB 242 and SB 149 is included with this report.

Reporting

This report comprises a summary of the waiver activity since the Retiree Return program became effective on July 1, 2001 to the last reporting period, November 30, 2004 for both the TRS and, although not required, for the PERS.

TRS Results

During the course of the Retiree Return program, 56% of all TRS employers have participated and 187 waivers were filed with the Division of Retirement and Benefits. As of November 30, 2004, there are 124 individuals who remain employed under the waiver provisions. The largest number of retirees rehired within 30-90 days of their termination and retirement (42%). The second largest number of returned retirees were those who had been retired for 24 or more months (38%). The largest number of positions rehired was general teachers with the second highest being Special Education teachers.

Analysis by Mercer Human Resource Consulting, the TRS actuaries, indicate the following impact on the TRS as a result of the 124 returned retirees and the potential effect if more retirees were to return:

Number of Members Electing the Waiver	Increase in Average TRS Employer Contribution Rate
100 Members	.02%
500 Members	.10%
1,000 Members	.20%

Total TRS salaries as of the last valuation on June 30, 2003 was \$532,630,000.00. The liability to the TRS fund would be:

TRS Salaries	Contribution Rate Increase	Liability to the TRS Fund
\$532,630,000.00	.02%	\$106,526.00
\$532,630,000.00	.10%	\$532,630.00
\$532,630,000.00	.20%	\$1,065,260.00

Additional information regarding the employers that have participated in the program and how they have participated is included in the statistical section of this report.

PERS Results

During the period of the retiree return program, 26% of PERS employers have participated in the program with a total of 297 waivers filed with the Division of Retirement and Benefits. As of November 30, 2004, there are 211 retirees still employed under the waiver provision.

The largest number of retirees rehired within 30-90 days of their termination and retirement (46%). The second largest number of returned retirees were those who had been retired for 24 or more months (28%). The largest number of positions rehired was Biologists and the second highest position rehired was Engineers.

Analysis by Mercer Human Resource Consulting, the PERS actuaries, indicate the following impact on the PERS fund as a result of the 211 returned retirees and the potential effect if more retirees were to return:

Number of Members Electing the Waiver	Increase in Average PERS Employer Contribution Rate
100 Members	negligible
500 Members	.01%
1,000 Members	.02%

Total PERS salaries as of the last valuation on June 30, 2003 were \$1,460,783,000.00. The liability to the PERS fund would be:

PERS Salaries	Contribution Rate Increase	Liability to the PERS Fund
\$1,460,783,000.00	negligible	\$--
\$1,460,783,000.00	.01%	\$146,078.30
\$1,460,783,000.00	.02%	\$292,156.60

Additional information regarding the PERS employers that have participated in the program and detailed information regarding the type of positions rehired is included in the statistical section of this report.

Cost Savings

The main cost savings experienced by employers using HB 242 reside in the payment of employer contributions. When a qualified retiree rehired and waives participation in the PERS or TRS, no employer contributions are paid to either the PERS or the TRS. In some cases, municipalities have negotiated with employee unions not to provide health insurance benefits to rehired retirees since they are covered under the AlaskaCare Retiree Health Plan. This results in further savings to employers.

HB 242 did not contain a requirement for employers to report cost savings realized from hiring positions at lower salary level. The State of Alaska Division of Personnel, however, prepared a report that contained some limited information that can be included here.

As of August 17, 2004, the Division of Personnel reported 123 active State of Alaska employees working under the waiver program. Of these, 78 returned to work in a position at a salary lower than the salary they earned prior to their retirement. 22 retirees returned to a position at the same salary and 23 returned to a position at a higher salary. Of the 23 that returned to a position at a higher salary range, all but 2 had been retired between 1 and 4 years.

Sunset Provision

On September 14, 2004 the Division of Retirement and Benefits received an Attorney General Opinion regarding the employment status of returned retirees as of the sunset date of the legislation. The opinion states that once the reemployment amendments to the PERS and TRS statutes sunset on July 1, 2005, reemployed retirees can no longer receive retirement benefits while employed by a PERS or TRS employer. If they continue employment with a PERS or TRS employer, they must begin making contributions to the retirement systems and have their retirement benefits stopped.

A copy of the Attorney General opinion is included in this report.

MERCER

Human Resource Consulting

One Union Square
600 University Street, Suite 3200
Seattle, WA 98101-3137
206 808 8800 Fax 206 382 0627
www.mercerHR.com

RECEIVED

SEP 07 2004

September 2, 2004

Div. of Ret. & Benefits

Ms. Melanie Millhorn
Director of Retirement and Benefits
State of Alaska
Department of Administration
Division of Retirement and Benefits
P.O. Box 110203
Juneau, AK 99811-0203

Subject:

Retiree Return under HB 242/SB 149

Dear Melanie:

As you described in your August 10 email, the legislation enacted in July of 2001 allows PERS and TRS retirees who retired under the normal retirement provisions to return to covered employment. Such retirees can sign an irrevocable waiver allowing the member to continue to receive his or her retirement benefit. Neither the employer nor the employee makes further contributions to the Retirement System. In your email you asked for an indication of the effect of this election on System funding. The chart that follows might help to illustrate this issue:

Number of Members Electing the Waiver	Increase in Average PERS Employer Contribution Rate	Increase in Average TRS Employer Contribution Rate
100	negligible	0.02%
500	0.01%	0.10%
1,000	0.02%	0.20%

A member who elects the waiver earns no additional benefits from the Retirement System. Therefore, such a member has no "normal cost" and there is no normal cost rate. However, a portion of the employer contribution for each member is needed to amortize the Systems' unfunded past service liability. This portion is referred to as the "past service rate." When a member elects the waiver, the payroll base that can be used to amortize the unfunded liability is reduced. A higher past service rate must be applied to the remaining payroll to arrive at the same payment towards the unfunded liability.

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Human Resource Consulting

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SEP 07 2004

Div. of Ret. & Benefits

Page 2

September 2, 2004

Ms. Melanie Millhorn

State of Alaska

The waivers have a greater impact on employer rates for TRS than PERS. This is because (1) the total payroll for PERS is higher so the loss of one member's contribution to the unfunded has a smaller impact and (2) the current past service rate for TRS is almost twice as high as PERS. Our analysis is extremely dependent on the current funded status of the Systems. For example, if the Systems were 100 percent funded and remained so, the waiver would have virtually no impact on employer rates.

We based our analysis on actuarial valuation information as of June 30, 2003. We assumed annual earnings for returning retirees of \$46,000 for PERS and \$64,000 for TRS. This is based on the average annual earning of current active PERS and TRS members of ages 55 to 59.

We hope you find this information helpful. Please call if you have any questions.

Sincerely,



Robert M. Reynolds, ASA, MAAA

RMR/CMB/kmp

Copy: Chris Byrnes

g:\mrc\state\pensions\2004\cost of retire return rev_081104_rmr.doc

**NOTIFICATION SENT TO EMPLOYERS REGARDING
SEPTEMBER 14, 2004 AG OPINION**

November 3, 2004

«mrms» «fnm» «ln»«jrstr», «title»
«ltrregion»
«address»
«city», «st» «zip»

PERS / TRS: «crs_code»

Re: HB 242 Rehired Retiree - Employment Waiver

Dear «mrms» «ln»:

In 2001 the Alaska Legislature enacted HB 242, which amended the statutes to allow certain Public Employees' (PERS) and Teachers' Retirement System (TRS) members who retired with a normal retirement to return to work, continue to receive normal retirement benefits, and waive further participation in the retirement systems. Once participation was waived, no contributions were required from the employer or the employee. This legislation is scheduled to sunset on July 1, 2005.

In a written opinion issued September 14, 2004, the State of Alaska Attorney General's (AG) Office explained that, once the legislation sunsets, the members enrolled in the program will no longer be permitted to participate beyond the sunset date of July 1, 2005. The re-employment amendments will be repealed on July 1, 2005, and the statutes that require re-employed retirees and their employers to contribute to the applicable retirement system are in effect.

In order to address this matter, the Governor's Office will work with the Legislature on legislation to allow members who are currently covered under the re-employment waiver provision to continue to both work and receive normal retirement benefits after July 1, 2005. However, unless the Legislature approves legislation all retirees who have re-employed under the HB 242 waiver provisions and their employers will be required to contribute once again to the retirement systems. Furthermore, retirement benefits would be stopped for those retirees who continue working after the sunset date of this legislation.

We are providing notice to all employers by this letter and enclosed copy of the opinion. A separate letter is being sent to all affected retirees and that letter and a copy of the AG opinion will be published on the Division of Retirement and Benefits web site at www.state.ak.us/drb.

November 3, 2004

under Headlines. Notice will also be provided in the next edition of the PERS and TRS member newsletters. If you have further questions regarding HB 242 or your retirement benefits, please contact Kathy Lea, Retirement Manager at 465-4460 in Juneau or 1-800-821-2251 if you are outside of Juneau.

Sincerely,



Ray Matiashowski
Commissioner

RM/MM/ksl

Enclosure

G:/mailouts/hb242/november2004/pers employer.doc

cc: All Commissioners

Kevin Brooks, Deputy Commissioner, Department of Administration

Mike Tibbles, Deputy Commissioner, Department of Administration

Melanie Millhorn, Director, Division of Retirement and Benefits

Virginia Ragle, Assistant Attorney General, Department of Law

Toby Steinberger, Assistant Attorney General, Department of Law

PERS Contacts

**NOTIFICATION SENT TO REHIRED RETIREES REGARDING
SEPTEMBER 14, 2004 AG OPINION**

November 3, 2004

«FirstName» «MI» «LastName»
«attn»
«address»
«city», «state» «zip»

Re: HB 242 Rehired Retiree - Employment Waiver

Dear «FirstName» «MI» «LastName»:

In 2001 the Alaska Legislature enacted HB 242, which amended the statutes to allow certain Public Employees' (PERS) and Teachers' Retirement System (TRS) members who retired with a normal retirement to return to work, continue to receive normal retirement benefits, and waive participation in the retirement systems. Once participation was waived, no contributions were required from the employer or the employee. This legislation is scheduled to sunset on July 1, 2005.

The State of Alaska Attorney General's (AG) Office has issued a written opinion dated September 14, 2004, regarding the treatment of employees enrolled under this waiver after June 30, 2005. The Attorney General's Office has determined that the Legislature did not intend to extend this legislation beyond June 30, 2005, and the re-employment amendments are repealed as of July 1, 2005. The statutes that previously required re-employed retirees and their employers to contribute to the applicable retirement system will be in effect as of July 1, 2005.

In order to address this matter, the Governor's Office will work with the Legislature on legislation to allow members who are currently covered under the re-employment waiver provision to continue to both work and receive normal retirement benefits after July 1, 2005. However, unless the Legislature approves legislation all retirees who have re-employed under the HB 242 waiver provisions and their employers will be required to contribute once again to the retirement systems. Furthermore, retirement benefits will be stopped for those retirees who continue working after the sunset date of this legislation.

Our records indicate that you have filed a waiver under the HB 242 provisions and have returned to work with a participating employer. The Division wanted to make you aware of this AG opinion, which can be referenced at www.state.ak.us/dr/b, under Headlines. A separate letter and

November 3, 2004

copy of the opinion is being sent to all affected employers. If you have further questions regarding HB 242 or your retirement benefits, please contact Kathy Lea, Retirement Manager at 465-4460 in Juneau or 1-800-821-2251 if you are outside of Juneau.

Sincerely,



Ray Matiasowski
Commissioner

RM/MM/ksl

G:/mailouts/hb242/november2004/participant.doc

cc: All Commissioners

Kevin Brooks, Deputy Commissioner, Department of Administration

Mike Tibbles, Deputy Commissioner, Department of Administration

Melanie Millhorn, Director, Division of Retirement and Benefits

Virginia Ragle, Assistant Attorney General, Department of Law

Toby Steinberger, Assistant Attorney General, Department of Law

RETIREE RETURN UNDER HB 242/ SB 149

Public Employees' Retirement System			
Number of Members Electing the Waiver	Increase in Average PERS Employer Contribution Rate	Total PERS Salaries as of June 30, 2003	Liability to the PERS Fund
100	negligible	\$ 1,460,783,000.00	\$ -
500	0.01%	\$ 1,460,783,000.00	\$ 146,078.30
1,000	0.02%	\$ 1,460,783,000.00	\$ 292,156.60

Teachers' Retirement System			
Number of Members Electing the Waiver	Increase in Average TRS Employer Contribution Rate	Total TRS Salaries as of June 30, 2003	Liability to the TRS Fund
100	0.02%	\$ 532,630,000.00	\$ 106,526.00
500	0.10%	\$ 532,630,000.00	\$ 532,630.00
1,000	0.20%	\$ 532,630,000.00	\$ 1,065,260.00

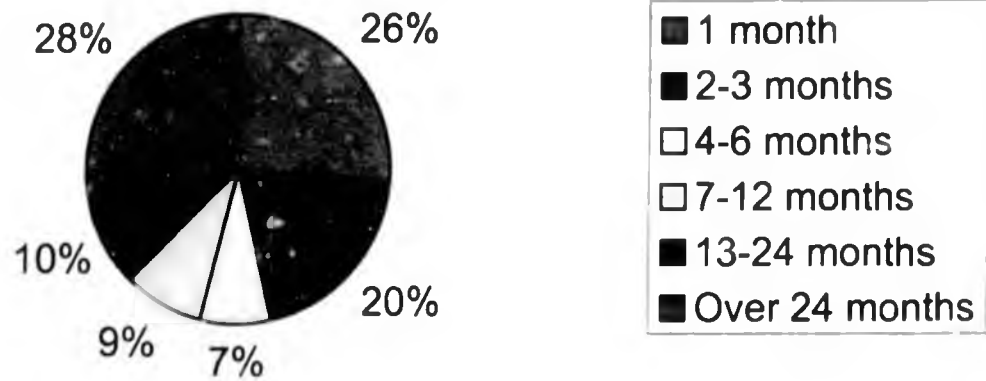
Analysis of Retiree Rehire Program-PERS (HB 242)

Summary

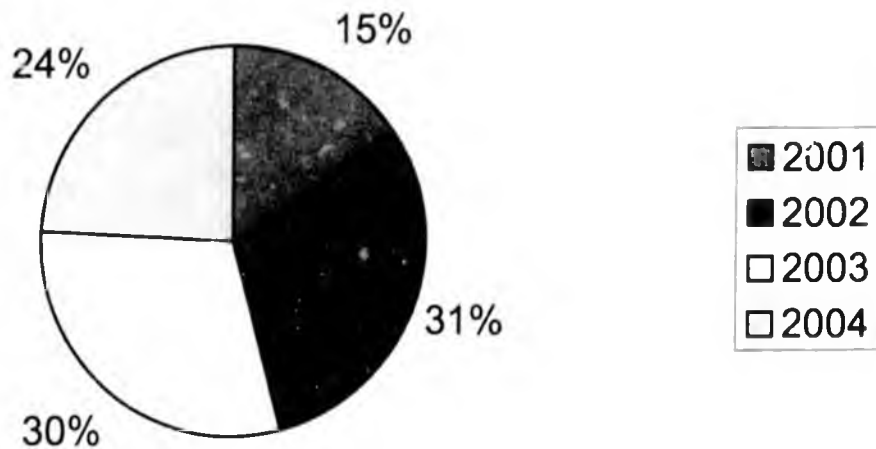
The following information summarizes the activity reported by employers to the division from July 1, 2001 through November 30, 2004.

Total number of PERS employers	160
Total number of PERS employers participating in the retiree rehire program	34
Percentage of total PERS employers participating in the retiree rehire program	21%
Total number of PERS waivers received	297
Total number of waivers received by year:	
July 1, 2001 to December 31, 2001	46
January 1, 2002 to December 31, 2002	90
January 1, 2003 to December 31, 2003	89
January 1, 2004 to November 30, 2004	72
Number of months between termination and rehire	
26% of retirees rehired within 30 days of termination of employment	
20% of retirees rehired within 60-90 days of termination of employment	
26% of retirees rehired between 4 and 24 months from termination of employment	
28% of retirees rehired more than 24 months from termination of employment	
Number of retirees working under a waiver as of November 30, 2004	211

Number of Months Between Termination and Rehire-PERS



PERS Rehired Retirees by Year



Top Ten Job Classes Rehired Under PERS (HB 242)

Job Class	Waivers On File
Biologist (various)	16
Engineer (various)	16
Directors, (various)	10
Peace Officers	10
Admin Clerk	9
Managers, Various	9
Analyst Programmer	8
Admin Asst.	7
Attorney	6
Program or Project Coord.	6
Investigator	5
Secretary	5
Teacher's Aide	5
Airport Screening Officer	4
Biometrician	4
Deputy Commissioner	4
Fish & Wildlife Tech	4
Maintenance	4
Nurses	4
Admin. Managers	3
Accountants	3
Chief of Police	3
City Administration	3
Manager, Natural Resource	3

Detail of Number of Retirees Rehired by Each PERS Employer

Participating Employer	Employment Waivers Issued	EE Employed as of 11/30/04
Alaska Housing Authority	1	1
Alaska Housing Finance	1	1
Aleutian Region School District	1	1
Anchorage School District	17	13
Bartlett Hospital	5	5
Bering Straits School District	1	1
Bristol Bay Borough	2	1
City & Borough of Juneau	8	6
City & Borough of Sitka	1	1
City of Bethel	1	1
City of Delta Junction	1	1
City of Dillingham	1	0
City of Fairbanks	10	7
City of Homer	3	3
City of Kenai	6	6
City of Ketchikan	1	0
City of Klawock	1	0
City of Sand Point	1	1
City of Seward	1	1
City of St. George	1	1
City of St. Mary's	1	1
City of Wasilla	3	1
City of Whittier	1	1
Cook Inlet Housing Authority	1	0
Fairbanks North Star Borough	2	2
Haines Borough	1	0
Iditarod Area School District	1	1
Interior Region Housing Authority	1	0
Juneau School District	1	1
Kenai Peninsula Borough School District	1	0
Ketchikan Gateway Borough School District	2	1
Ketchikan Gateway Borough	1	0
Mat-Su Borough	3	2
Municipality of Anchorage	18	12
North Slope Borough	9	7
Nome School District	1	1
Northwest Arctic School District	1	1
Southeast Regional Resources Center	3	1
Sitka Community Hospital	1	0
State of Alaska	169	123
University of Alaska	11	5
Totals	297	211

PERS Rehired Retiree Job Class by Employer

Employer	Position
Political Subdivision	AA Assistant
	Accountant
	Accounting Tech
	Accounts Payable Clerk
	Administrative Assistant
	Adult Educator
	Appraisal Analyst
	Addiction Recovery Aide
	Army Instructor
	Assistant Attorney
	Assistant Librarian
	Business Manager
	Chief Admin Officer
	Chief of Police
	Chief Regulatory Engineer
	City Administrator
	City Clerk
	Civil Engineer
	Community Jail Officer
	Construction Inspector
	Controller
	Customer Service Representative
	CST/ORT (Medical)
	Detective
	Diet Aide
	Dispatcher
	Economic Developer/Planner
	Electrical Projects Superintendent
	Engineer Associate
	Engineering Technician
	Engineer
	Equipment Operator
	Evidence Technician
	Finance Director
	Financial Manager
	Fire Captain
	Fire Chief
	Food Prep./Bldg. & Groundskeeper
	Foreign Language Teacher
	General Foreman
	Grants Accountant
	Harbor Officer
	Heavy Equipment Operator
	Indian Education
	Inst. Systems Technician
	Labor Manager
	Maintenance

Employer
Political Subdivision

Position

Maintenance Asst
Museum Curator
Nuclear Medicine Tech
Nurse Practitioner
Operations Supervisor/Firefighter
Personnel Coordinator
Personnel Director
Planning Director
Plant Manager
Police Clerk
Police Corps Director
Police Detective
Police Lieutenant
Police Officer
Port Director
Port Manager of Finance & Administration
Project Management & Engineering Div. Mgr.
Public Safety Director
Public Works Director
Public Works Manager
Radiology Technician
Reference Librarian
Registered Nurse
Resident Building Manager
Sanitarian
Secondary Teacher
Secretary
Service Coordinator
Shop Foreman
Site Specialist
Spanish teacher
Special Administrative Assistant
Special Assistant
Special Education Aide
Senior Admin Officer
Senior Library Asst.
Senior Public Health Nurse
STP Equipment Operator
Teacher's Aide
Truck Driver
Village Coordinator
Water/Sewer Forman
World Language Teacher

State of Alaska
Academic Counselor
Accountant
Accounting Clerk
Administrative Assistant
Administrative Assistant to Director

Employer
State of Alaska

Position

Administrative Clerk
Administrative Manager
Aircraft Pilot
Airport Safety Officer
Airport Screening Officer
Analyst Programmer
Assistant Commissioner
Assistant Director
Attorney
Bailiff
Biometrician
Building Plans Examiner
Captain
Certified Nurses Aide
Chief Environmental Health Labs
Children's Services Manager
Commissioner
Community Development Specialist
Correctional Personnel
Criminal Justice Planner
Deputy Clerk
Deputy Commissioner
Deputy Director
Director
Eligibility Technician
Engineering (various levels)
Environmental Services
Facilities Manager
Fish & Wildlife Technician
Fisheries Biologist
Fisheries Scientist
Grants Administrator
H&SS Planner
Habitat Biologist
Health & Safety Officer
Human Resource Manager
Investigator
Leasing Officer
Lieutenant
Local Government Specialist
Maintenance
Major
Medical Records Asst.
Mental Health Clinician
Motor Vehicle Representative
Museum Security Clerk
Natural Resource Manager
Natural Resource Specialist
Nurse (various types)

Employer
State of Alaska

Position

Oiler
Operations Manager
Pioneer Home Administrator
Probation Officer
Procurement Specialist
Program Coordinator
Programmer Analyst
Project Coordinator
Project Manager
Recorder
Recruiter
Regional Supervisor
Research Analyst
Research Tech
Right of Way Agent
Second Mate
Secretary
Security Guard
Senior Project Engineer
Social Worker
Special Projects Manager
Staff Physician
State Law Librarian
State Trooper
Supervisor
Survey Lead
System Programmer
Systems Programmer
Technical Engineer
Technician, Retirement
Technician, Eligibility
Third Mate
Transportation Planner
Utility Financial Analyst
Vessel Scheduling Coordinator
Warehouse Manager
Wildlife Biologist

PERS Rehired Retiree Job Class Summary

Job Class	Waivers Received
Academic Counselor	1
Accountant	3
Accounting Clerk	1
Accounting Technician	1
Accts. Payable Clerk	1
Admin Asst.	8
Admin Clerk	9
Admin Manager	1
Admin Officer	2
Adult Educator	1
Aide Secondary Teacher	1
Aircraft Pilot	2
Airport Safety Officer	1
Airport Screening Officer	4
AMHS Third Mate	2
Analyst Programmer	8
Appraisal Analyst	1
Addiction Recovery Aide	1
Army Instructor	1
Asst. CMS Project Mgr.	1
Asst. Commissioner	1
Asst. Director	1
Attorney (varying levels)	6
Bailiff	1
Biologist (various)	19
Biometrician (varying levels)	3
Building Plans Examiner	2
Business Mgr.	1
Captain	1
Cert. Nurses Aide I	1
Chief Environ. Health Labs	1
Chief of Police	3
City Administration	4
City Clerk	1
Commissioner	2
Community Dev. Spec	2
Community Jail Officer	1
Construction Inspector	1
Controller	1
Correctional Officer	2
Criminal Justice Planner	1
Cust. Serv. Rep. (Medical)	1
CST/ORT (Medical)	1
Deputy Clerk	2
Deputy Commissioner	4
Deputy Director	1
Operations Supervisor	1

Job Class	Waivers Received
Detective	2
Diet Aide	1
Directors, various	10
Dispatcher	1
Economic Developer/Planner	1
Electrical Projects	
Superintendent	1
Eligibility Technician	2
Engineer (Varying types)	16
Environmental Services	1
Environmental Specialist	1
Equipment Operator	1
Evidence Technician	1
Facilities Mgr.	2
Financial Manager	1
Fire Captain	2
Fire Chief	1
Fish & Wildlife Tech	5
Food Prep./Bldg. & Groundskeeper	1
Foreign Language Teacher	1
General Foreman	1
Grants Accountant	1
Grants Administrator	1
H&SS Planner	1
Harbor Officer	1
Health & Safety Officer	1
Heavy Equip. Operator	1
Indian Education Inst.	1
Inst. Systems Tech.	1
Investigator (varying levels)	5
Leasing Officer	1
Librarian, Asst.	3
Lieutenant	2
Local Gov't Spec	1
Maintenance	4
Major	1
Manager (various types)	13
Medical Records Asst.	1
Mental Health Clinician	2
Motor Vehicle Rep.	1
Museum Curator	1
Museum Security Clerk	1
Natural Resources Specialist	1
Nuclear Medicine Tech	1
Nurse	6
Oiler	1
Operations Mgr.	1

Job Class	Waivers Received
Personnel Coordinator	1
Physician, Staff	1
Pioneer's Home Admin	1
Plant Manager	1
Police Clerk	2
Police Detective	1
Police Lieutenant	4
Police Officer	4
Port Mgr. Of Finance & Administration	1
Probation Officer	1
Procurement Spec	1
Program Coordinator	4
Programmer Analyst	2
Project Coordinator	2
Public Safety Technician	1
Radiology Tech	1
Recorder	2
Recruiter	1
Reference Librarian	2
Regional Supervisor	1
Research Analyst	1
Research Tech	1

Job Class	Waivers Received
Scientist, Fisheries	1
Second Mate	1
Secretary	5
Security Guard	1
Service Coordinator	1
Shop Foreman	1
Site Specialist	1
Social Worker	1
Special Asst.	2
State Trooper	5
STP Operator	1
Superintendent, Corrections	1
Supervisor	1
Survey Lead	1
Teacher, World Language	2
Teacher's Aide	7
Technician, Retirement	1
Transportation Planner	1
Truck Driver	3
Utility Financial Analyst	1
Vessel Scheduling Coordinator	1
Village Coordinator	1

Analysis of Retiree Rehire Program-TRS (HB 242/SB 149)

Summary

The following information summarizes the activity reported by employers to the division from July 1, 2001 through November 30, 2004.

Total number of TRS employers	57
Total number of TRS employers participating in the retiree rehire program	32
Percentage of total TRS employers participating in the retiree rehire program	56%
Total number of TRS waivers received	187

Total number of waivers received by school year:

July 1, 2001 to June 30, 2002	21
July 1, 2002 to June 30, 2003	68
July 1, 2003 to June 30, 2004	61
July 1, 2004 to June 30, 2005	37

Number of months between termination and rehire

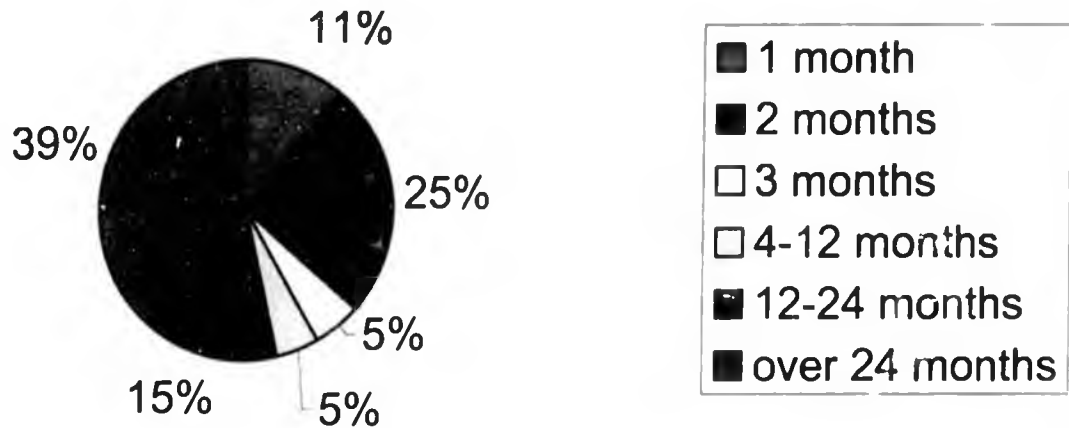
- 11% of retirees rehired within 30 days of termination of employment
- 31% of retirees rehired within 60-90 days of termination of employment
- 20% of retirees rehired between 4 and 24 months from termination of employment
- 38% of retirees rehired more than 24 months from termination of employment

Number of retirees working under a waiver as of November 30, 2004	124
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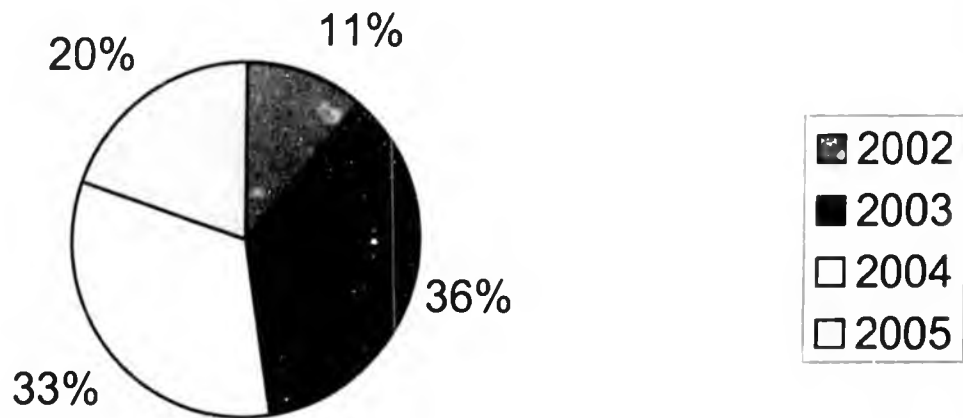
Detail of Number of Retirees Rehired by Each TRS Employer

Participating School Districts	Employment Waivers Issued	EE Employed as of 11/30/04
Alaska Gateway	1	1
Aleutian Region	1	1
Anchorage	65	37
Bering Straits	5	7
Bristol Bay	3	3
Copper River	5	1
Craig	1	0
Delta Greely	1	1
Denali Borough	1	1
Dillingham	1	1
Hoonah	2	1
Hydaburg	2	0
Iditarod	5	2
Juneau City and Borough	2	2
Kashunimiut	1	1
Ketchikan Gateway Borough	3	3
Klawock	1	1
Kuspuck	1	1
Lake and Peninsula	3	1
Lower Kuskokwim	45	38
Lower Yukon	2	2
Mat-Su	10	3
Nenana City Schools	1	1
North Slope Borough	8	5
Northwest Arctic Borough	3	3
Pribilof	1	1
Sitka	4	3
St. Mary's	2	1
Southwest Region	1	1
Tanana	1	0
Wrangell	2	1
Yukon Flats	3	0
Yukon -Koyukuk	3	0
	187	124

Number of Months Between Termination and Rehire-TRS



TRS Rehired Retirees by School Year



TRS Rehired Retiree Job Class Detail

Job Class	Walters Received
8th Grade Resource Team Leader	1
Admin Asst. For Education	1
Counselor	9
Curriculum Director	2
Dir of Academic Prog.	1
Director of Curriculum	1
Education Program Coordinator/Teacher	1
Education Specialist	1
Grants Administrator	1
Interim Principal	1
Itinerant Indian Arts	1
Learning Center Coordinator	1
Librarian	4
Principal	9
Principal/Teacher	3
Psychologist	3
REA Bldg. Spec.	1
School Nurse	2
School Psychologist	6
School-to-Work Proj. Coordinator	1
Site Administrator	5
Site Development Supervisor	1
Special Ed. Supervisor	1
Special Ed. Teacher	26
Speech Therapist	3
Staff Development Spec.	1
Superintendent	9
Teacher, general	67
Teacher, Advanced Science/Math	2
Teacher, English	1
Teacher, ESL	1
Teacher, Math	5
Teacher, Music	4
Teacher, Reading	1
Teacher, Resource	4
Teacher, Science	1
Teacher, Secondary	1
Teacher, Spanish	1
Teacher, Special Ed.	1
Teacher, Title I	1
Teacher, Vocational Education	1

Memorandum

State of Alaska

Department of Law

TO: Melanie Millhorn
Director
Division of Retirement & Benefits

DATE: September 14, 2004

OUR FILE: 661-05-0035

FROM: Toby N. Steinberger
Assistant Attorney General
Labor & State Affairs Section
Anchorage

TELEPHONE NO: 269-5178

SUBJECT: Reemployed retirees – effect
of HB 242 (2001) sunset
provision

Virginia B. Ragle
Assistant Attorney General
Labor & State Affairs Section
Juneau

I. INTRODUCTION

You have asked about the effect of the “sunset” provision of HB 242, which was enacted in 2001 (ch. 57, SLA 2001). HB 242 amended Public Employees’ Retirement System (PERS) and Teachers’ Retirement System (TRS) statutes to allow certain retirees who returned to work in positions normally covered by the systems to waive coverage under the systems. Therefore they would not be required to contribute to PERS or TRS and they would not accrue additional service credits. However, the reemployment amendments allowed eligible reemployed retirees to continue to receive their retirement benefits while employed.¹ The bill specifically included provisions that repeal these amendments on July 1, 2005.

This memorandum confirms oral advice that, once the re-employment amendments are repealed, the statutes that previously required reemployed retirees and their employers to contribute to the applicable retirement system and terminate retirement benefit payments upon reemployment will apply. Therefore any member who has been receiving retirement benefits while employed by a TRS or PERS employer would, as of July 1, 2005, no longer receive retirement benefits while employed but would again start accruing additional service credits and making contributions to PERS/TRS.

¹ Prior to the enactment of HB 242, under the Public Employees’ Retirement System and Teachers’ Retirement System statutes, if a retiree member returned to PERS/TRS employment, his/her retirement benefits ceased and the member and his/her employer would resume making contributions to PERS/TRS. The member would accrue additional service credits.

II. BACKGROUND

A. Legislative history

Before July 1, 2001, with limited exceptions, the PERS and TRS statutes required employees of PERS employers and teachers hired by TRS employers to participate in the applicable retirement system. AS 14.25.040; AS 39.35.120. The statutes also prohibited payment of retirement benefits to reemployed retirees during the period of reemployment. AS 14.25.043; AS 39.35.150.²

HB 242 was introduced in the 2001 legislative session. Among other things, the bill amended AS 14.25.043, relating to the reemployment of retired TRS members, and AS 39.35.150, relating to the reemployment of retired PERS members. Sections 4 and 8 of HB 242 amended these statutes to provide that if a retired member of TRS or PERS returns to employment, the member could elect to continue to receive retirement benefits during the period of reemployment but would not continue to accrue credited service. AS 14.25.043(b) and AS 39.35.150(b). In addition, no deductions would be made from the member's salary for contributions to his/her retirement system and the employer would make no contributions on behalf of the member. AS 14.25.043(b) and AS 39.35.150(b). This option would only be available to members who took normal

² Prior to HB 242, AS 14.25.043(a) provided:

If a retired member again becomes an active member, benefit payments may not be made during the period of employment. The retirement benefit must be suspended for the entire school year if the teacher is reemployed as an active teacher for a period equivalent to a year of service. During the period of reemployment, deductions from the member's salary will be made in accordance with AS 14.25.050.

AS 39.35.150(a) provided:

If a retired employee subsequently becomes an active member, benefit payments may not be made during the period of reemployment. During the period of reemployment, deductions from the employee's salary shall be made in accordance with AS 39.35.160. Upon subsequent retirement, the retired employee is entitled to receive an additional pension based on the credited service and the average monthly compensation earned during the period of re-employment in accordance with AS 39.35.370.

retirement; a member who participated in an earlier retirement incentive program or took early retirement would not be eligible to take advantage of these amendments. AS 14.25.043(b) and AS 39.35.150(b). The amendments provided that the election was irrevocable during the period of reemployment. AS 14.25.043(b) and AS 39.35.150(b).

With respect to TRS, at section 1 of the bill, the legislature provided that a teacher could only take advantage of the reemployment amendments if the school district or Rural Educational Attendance Area (REAA) had made a declaration of an anticipated shortage of teachers in particular disciplines. AS 14.20.135.

Section 12 of the bill repealed the reemployment amendments as of July 1, 2005. At section 15 of the bill, the legislature reinstated the law as it existed prior to July 1, 2001. Section 13 of the bill required that the administrator of TRS annually report to the legislature on the effects of the bill on the retirement system.

Guy Bell, Director of the Division of Retirement and Benefits (DR&B), and employers and employee organizations testified in support of the reemployment amendment during committee hearings. That testimony explained that the amendments were meant to provide incentives for PERS and TRS retirees to return to work for school districts, the state, and other PERS employers, in order to alleviate workforce shortages and the "brain drain" resulting from retirement of the baby boom generation, among other causes.

The legislative history of the sunset provision of HB 242 is not extensive. The bill was introduced on April 10, 2001, and was passed less than a month later, on May 8, 2001. House Finance Committee members first raised the suggestion of a sunset provision for the reemployment amendments at a hearing on April 23, 2001.³ The

³ A similar sunset provision was proposed for TRS reemployment provisions included in SB 149, at an April 20, 2001, Senate Health, Education and Social Services' committee hearing. The minutes indicate that Division Director Guy Bell testified that he believed "it is a good idea to include a sunset provision so that the legislature can re-evaluate this program in the future." Vice-Chair Leman "said his intention was to get something into effect that will work this year and next year and then take another look at it." At the Senate Finance committee hearing on April 25, 2001, the staff to Senator Leman testified that SB 149 provided for an annual report to the legislature regarding the impact of the reemployment of retired teachers on the retirement program itself. He further indicated that the legislation has a sunset clause "in the event the teacher shortage situation changes." SB 149 was enacted as chapter 58, SLA 2001. SB 149 included a July 1, 2005 sunset date for the TRS retiree reemployment provisions.

minutes of the hearing indicate that the purpose of the sunset provision was to allow the legislature an opportunity to study the effect of allowing retired members to return to employment as provided in the proposed amendments. The minutes of the April 23, 2001, meeting read in pertinent part:

Representative Whitaker asked if thought had been given on the affect [sic] on the entry-level workforce. He noted that new graduates could lose in the choice between experience-retired teachers.

Representative John Davies echoed concerns of Representative Whitaker and noted that *he would propose a 3-year sunset to allow assessment of unintended consequences* (Emphasis added).

The minutes indicate that later in the hearing the committee continued to discuss the sunset provision:

Representative John Davies MOVED to ADOPT Amendment 1. He reiterated that the amendment would provide a 3-year sunset. He expressed support for the legislation but felt that it would be good legislative policy to review the change.

Representative Kott did not object to the sunset provision. He acknowledged that the sunset would require the legislature to review the issue, but felt that any problems would be discovered in the next few years.

Ms. Elgee testified that the amendment would not have an adverse affect [sic] but questioned if 3 years would be sufficient time to review the program.

Representative John Davies stated that he would not object to a longer period.

Co-Chair Williams questioned if a five-year period would be too long.

Representative Kott observed that sunset would fall before the increase in retiring teachers that is expected in the year 2005.

Representative John Davies stated that he would entertain a motion to change the date to 2006.

Vice-Chair Bunde Moved to Amend Amendment 1 by changing the sunset date to the year 2005. There being NO OBJECTION, it was so ordered.

There being NO OBJECTION, Amendment 1 was adopted.

Although the minutes indicate that a sunset date in 2005 was adopted, the published House Finance Committee substitute included provisions that repealed the reemployment provisions effective July 1, 2006.

The Senate Finance Committee discussed the sunset provision on May 4, 2001. The minutes reflect again that the purpose of the sunset provision was to allow the legislature an opportunity to evaluate the effectiveness of the reemployment amendments. The committee hearing minutes read:

Representative Kott indicated the changes in the committee substitute primarily pertain to the TRS benefits. He stated the committee substitute also changes the repeal date of this legislation from five, to four years. *He explained this change was made based upon projections showing the effectiveness of the program in five years.* (Emphasis added.)

During the Senate Finance Committee hearing, the sunset provision for the reemployment amendments was amended from five to four years, to be effective July 1, 2005. This is the version of the bill that was passed by the legislature, and signed by the governor. The sunset provision, section 12, affects only the reemployment amendments discussed above and not other provisions of the bill.⁴

The Department of Law's review of HB 242 for the governor explained the sunset provision as follows:

Both the TRS and the PERS provisions allowing retired rehires to continue to collect their retirement benefits have sunset dates. The relevant provisions are repealed as of July 1, 2005. *Presumably the legislature included this repealer so that it can examine, after four*

⁴ For example, the enhancements to PERS and TRS medical benefit eligibility and changes to the PERS cost-of-living differential provisions do not sunset.

years, whether these provisions are having their intended effects.
(Emphasis added).

B. Division of Retirement and Benefit's Publications and Forms

Information published by DR&B explains to PERS and TRS members the reemployment options under HB 242. The documents that most clearly indicate to members that the reemployment amendments only cover the periods of employment from July 1, 2001 through June 30, 2005, are the waiver forms that DR&B requires members to sign in order to waive PERS/TRS coverage. The "PERS Waiver Option – Reemployed Retiree" form succinctly informs PERS members that the waiver only covers the reemployment periods from July 1, 2001, to June 30, 2005. The PERS waiver form reads:

This waiver covers reemployment periods from July 1, 2001 to June 30, 2005 . . .

Similarly, the "TRS Waiver Option – Reemployed Retiree" form informs TRS members that the waiver option only applies if the teacher's school district or REAA makes a finding of an anticipated shortage of teachers from July 1, 2001 to June 30, 2005. This TRS form provides:

This waiver is only effective if a school district or Rural Educational Attendance Area (REAA) has made a declaration of a shortage, or an anticipated shortage of qualified teachers in particular disciplines or specialty areas from July 1, 2001 to June 30, 2005. The school district or REAA must pass a written resolution which defines those disciplines or specialty areas. . . .

Other DR&B publications do not specifically address whether a reemployed member may continue reemployment under the amendments after the sunset date. However, these DR&B publications do set out the sunset date for the new reemployment option. For example, an *Employer Newsletter* sent to PERS and TRS employers in the fall of 2001 describes the waiver option:

"Standard Option" or the new "Retiree Reemployment Waiver Option." The new Retiree Reemployment Waiver Option is a result of HB 242 and Senate Bill 149 – legislation passed and signed this last session and effective July 1, 2001, through June 30, 2005.

DR&B's May 2001 *Newsbreak* sent to PERS members describes the requirements for the new option, and states that the option "expires on July 1, 2005."

A document on DR&B's web site entitled "PERS Working After Retirement" describes the waiver option, and explains that "The law is effective July 1, 2001, and ends June 30, 2005." The web site also explains that "Once you file a PERS Waiver Option - Reemployed Retiree form with the Division of Retirement and Benefits, the election is irrevocable for the period of reemployment covered by the waiver."

With respect to TRS, DR&B's *Newsbreak* of October 2001 has a discussion of HB 242. It provides that no new waivers can be filed after June 30, 2005. A document on DR&B's web site entitled "TRS Working After Retirement" describes the waiver option for TRS members. This brochure provides that "[t]he law is effective July 1, 2001, and ends June 30, 2005" and that "the election is irrevocable for the period of reemployment or July 1 of the school year employed."

C. PERS/TRS regulations

Division of Retirement & Benefits adopted PERS emergency regulations on July 2, 2001, which became permanent on September 17, 2001, and TRS emergency regulations on July 2 and July 5, 2001, which became permanent on October 29, 2001. 2 AAC 35.322 (PERS); 2 AAC 36.236 and 36.237 (TRS).⁵ The regulations set out requirements for electing waiver of PERS and TRS coverage by reemployed retirees. The regulations do not address the eligibility of reemployed retirees to continue to receive retirement benefits after the reemployment provisions are repealed on July 1, 2005.

III. DISCUSSION

- A. **The reemployment provisions and the legislative history of the sunset provision indicate that the legislature did not intend that the reemployment amendments continue to apply to reemployed retirees once the amendments were repealed.**

In our opinion, the repeal of the reemployment provisions and reinstatement of the pre-HB 242 statutory language do not evidence an intent of the legislature to allow continuation of any aspect of the retiree reemployment option after June 30, 2005. The

⁵ These regulations appear in the supplement, rather than the main pamphlet for 2 AAC because they were not published in the Alaska Administrative Code until August 2003.

testimony of the legislators demonstrates that they only intended the amendments to be temporary, until repealed on July 1, 2005, because they wanted to assess the impact of the reemployment amendments on the workforce and on the retirement system. During hearings on the bill, Representative John Davies echoed Representative Whitaker's concern that the reemployment amendments would affect new graduates' ability to enter the workforce and proposed a sunset provision to allow "assessment of unintended consequences." The legislative history of SB 149⁶ similarly indicates that the reemployment amendments were an experiment. DR&B director Guy Bell testified that the sunset provision would allow the legislature an opportunity to evaluate the program. Staff to Senator Leman also testified that the annual report, required for TRS under both HB 242 and SB 149, would allow the legislature to study the impact of the reemployment amendments on the retirement system.

Although the bill had broad support from employers and employee organizations, the reemployment amendments to alleviate workforce shortage problems of PERS and TRS employers were new and untested. What is clear is that the legislature included provisions to sunset the reemployment provisions in order to review the changes and assess their efficacy and consequences. If experience with the changes over time revealed that the reemployment amendments were not needed, did not have the intended effect, or had other unintended consequences, the automatic repeal would terminate the effect of the amendments. It does not stand to reason that the legislature intended a program that proved to be unnecessary, ineffective, or detrimental to be perpetuated by unexpressed "grandfather" rights once the amendments were repealed.

The legislature could have provided reemployed retirees with grandfather rights to both be employed and continue to receive retirement benefits after June 30, 2005, if it had intended to do so. An obvious example of this would be a simple clause exempting retirees who were reemployed under the program on June 30, 2005, from the repeal. Another example is that, instead of repealing the reemployment amendments, the legislature could have specifically established June 30, 2005, as the deadline for reemployment and execution of a waiver of coverage in order for a retiree to participate in the program.

⁶ SB 149 is discussed at fn. 3. SB 149 did not address reemployment of PERS members, but contained the basically the same reemployment amendments for TRS members that were contained in HB 242. SB 149 was enacted as chapter 58, SLA 2001.

B. Article XII, section 7 of the Alaska Constitution does not give reemployed retired employees a contract right to receive retirement benefits while employed with a PERS/TRS employer after June 30, 2005.

A reemployed retiree might argue that he/she has a contract right under the Alaska Constitution, article XII, section 7 to continue reemployment under the amendments after June 30, 2005. We do not believe such an argument would prevail. To the extent the reemployment amendments provide any member with contractual rights under Alaska Constitution, article XII, section 7, the sunset provision constitutes part of the contract, extinguishing any right that a retired member may have had under the reemployment amendments.

Article XII, section 7, of the Alaska Constitution provides that:

Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

Hammond v. Allen, 625 P.2d 844 (Alaska 1981), addressed whether the repeal by referendum of the Elected Public Officers' Retirement System ("EPORS") extinguished elected officers' contractual rights under EPORS. Under legislation enacted in 1975, all legislators, the governor, and the lieutenant governor were removed from PERS and placed in the newly-established EPORS, which provided significantly enhanced benefits compared to PERS.⁷ The referendum was filed before the legislation took effect, but the vote on the referendum occurred after the effective date of the legislation.⁸ The state argued that the filing of the referendum constituted an *implicit* condition subsequent in the contract between the state and the participants of EPORS, therefore justifying extinguishing a duty under the contract. 625 P.2d at 848. Therefore, the state argued that public officers serving during the time that EPORS was in effect had no right to retirement benefits under EPORS when they retired after the effective date of the repeal.

⁷ In *Hammond v. Allen*, 625 P.2d 844, 847 (Alaska 1981) the state conceded "that the contractual rights of members of public employee retirement systems are 'vested.'"

⁸ The referendum to repeal EPORS was filed in September 1975. The law became effective January 1, 1976. In August 1976, the entire act was repealed in a referendum election.

The court disagreed. The court stated that any condition subsequent must be expressed or implicit and that it was not certain that EPORS would be repealed.⁹ The court wrote:

The Restatement defines "condition subsequent" as a condition which, if it occurs, "will extinguish a duty to make compensation for breach of contract after the breach has occurred." If the repeal of ch. 205, SLA 1975, operates as such a condition in this case, it would justify the State in breaching the contract we have determined is in existence and extinguish any duties the State would have otherwise had to make payments under that act. Because conditions subsequent have the effect of causing a forfeiture of contract rights that are otherwise due and enforceable, they are not favored by the law. *Generally speaking, "the intent to create a condition subsequent must appear expressly or by clear implication" if such a condition is to be found.* [Citations omitted]

In the present case there is no express condition subsequent contained in the contract between appellees and the State of Alaska. Appellant's position, then, is that such a condition exists "by clear implication." We note first that in Alaska the referendum operates as a repeal, . . . and that for that reason, appellant's argument seems to run directly counter to the provisions of AS 01.10.100(a). Under that statute, "(t)he repeal . . . of any law does not release or extinguish any . . . liability incurred or right accruing or accrued under such law." Further, we share appellees' apprehension that finding a condition subsequent to be implicit in the contract under consideration would undermine article XII, Section 7. *We believe that if the possibility of repeal of a law could function as an implicit condition subsequent to a contract formed under that law, the protection of contract rights afforded by article XII, section 7, would be seriously eroded.*

625 P.2d at 848.

⁹ The court also found that AS 01.10.100, regarding the effect of repealing a statute, did not extinguish the *vested* rights of the elected public officials to their benefits. As discussed *infra*, HB 242 does not provide the reemployed retirees with vested rights.

The repeal of the reemployment amendments contained in HB 242 is distinguishable from the referendum that repealed EPORS. The “condition subsequent” – the repeal of the reemployment amendments and reinstatement of the ban on payment of benefits to persons working for employers covered by PERS or TRS – is expressly provided for in HB 242, which is supported by the committee minutes.

- C. HB 242 does not provide the reemployed retirees with a vested right to continued employment under the terms of the amendments. Therefore the repeal of the reemployment amendments extinguished any rights that reemployed retirees had under those amendments.**

In prior court decisions, the court has held that public employees have a “vested right” to pension benefits that were available to them during their employment. Consequently, reemployed retirees may argue that they have a “vested right” to the reemployment amendments, even after June 30, 2005. However, it is our opinion that they do not have a vested right to take advantage of the reemployment amendments after June 30, 2005.

AS 01.10.100 pertains to the effect of a repeal of a statute on existing rights. AS 01.10.100 provides in pertinent part:

Effect of repeals or amendments.

- (a) The repeal or amendment of a law does not release or extinguish any penalty, forfeiture, or liability incurred or right accruing or accrued under that law, unless the repealing or amending act so provides expressly. The law shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture, or liability.
- (b) The expiration of a temporary law does not release or extinguish a penalty, forfeiture, or liability incurred or right accruing or accrued under that law unless the temporary law so provides expressly, and that law shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture, or liability or right accruing or accrued.

The court has held that a "right" under AS 01.10.100 means a "vested right" that is protected from state action under the Fourteenth Amendment of the United States Constitution and article I, section 7, of the Alaska Constitution. *Alaska Pub. Util. Comm'n. v. Chugach Elec. Ass'n*, 580 P.2d 687 (Alaska 1978), *overruled on other grounds* by *City & Borough of Juneau v. Thibodeau*, 595 P.2d 626 (Alaska 1979).

Based on the legislative history of HB 242, we conclude that the legislature did not intend to give reemployed retirees a right to continue receiving pension benefits while employed after June 30, 2005. As discussed above, the legislature wanted to reevaluate the effectiveness of the reemployment amendments before it decided to continue the application of those provisions beyond June 30, 2005. Therefore, reemployed retirees should have no expectation that the reemployment amendment would continue to apply to them after June 30, 2005.

Hammond v. Hoffbeck, 627 P.2d 1052 (Alaska 1981) is distinguishable from the situation that HB 242 presents. In *Hammond v. Hoffbeck*, the court ruled that employees have vested rights to pension benefits in PERS on employment and enrollment in PERS.¹⁰ Subsequent amendments to PERS that diminished the benefits of some members could not constitutionally be applied to those members. In the instant case, there is no subsequent amendment; rather, the sunset provisions are part of the same act that established the reemployment program. Since the sunset provisions constitute an integral part of the contractual right, application of the sunset provisions will not diminish benefits. Moreover, after June 30, 2005, reemployed retirees can still receive their pension benefits if they leave employment with a PERS or TRS employer or they can resume membership in PERS and TRS and begin accruing additional rights and benefits.

D. A study should be conducted to assess whether the reemployment of retired members has been effective.

Since the amendments will sunset on July 1, 2005, DR&B may want to conduct a study to determine whether the reemployment amendments have been effective in alleviating workforce shortage, have saved employers money, and have not been a cost burden to PERS or TRS. The DR&B can then make recommendations to the legislature.

¹⁰ As discussed above in footnote 9, in *Hammond v. Allen*, the court also relied on AS 01.10.100. In that case, public officials worked during the period that EPORS was in effect. There was no certainty that it was going to be repealed. Therefore, under the *Hoffbeck* decision, the public officials had a vested retirement benefit and therefore were entitled to benefits under EPORS when they retired.

The legislature will then have an opportunity to decide whether to continue the program after June 30, 2005, to make changes to the program, or to allow it to sunset.

IV. CONCLUSION

In summary, based on the statutory language and legislative history, it is our opinion that once the reemployment amendments sunset on July 1, 2005, reemployed retirees can no longer receive retirement benefits while employed by a PERS or TRS employer. If they continue employment with a PERS or TRS employer, they must begin making contributions. We understand that some reemployed retirees have contacted DR&B inquiring whether they can continue to receive retirement benefits and remain employed with a PERS/TERS employer after June 30, 2005. We recommend that the DR&B provide written notification to all reemployed retirees that, absent legislative action, they no longer will continue to receive retirement benefits from PERS or TRS after June 30, 2005 if they continue employment. We also recommend that the DR&B consider conducting a study on the effectiveness of the amendments and providing a report to the legislature in order that the legislature can decide whether to continue this program.

TNS/VBR/kmh/rca

HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 149(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered: 5/4/01
Referred: Rules**

Sponsor(s): SENATORS LEMAN, Davis

REPRESENTATIVES Wilson, Stevens, Dyson, James, Green, Crawford

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to reemployment of retired teachers, to eligibility for major medical
2 insurance coverage for beneficiaries of the teachers' retirement system, and to teacher
3 certificates; and providing for an effective date."

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

5 * **Section 1.** AS 14.20.010 is amended to read:

6 **Sec. 14.20.010. Teacher certificate required.** A person may not be
7 employed as a teacher in the public schools of the state unless that person possesses a
8 valid teacher certificate except that a person who has made application to the
9 department for a teacher certificate, including a preliminary teacher certificate
10 under AS 14.20.015, or renewal of a teacher certificate that has not been acted upon
11 by the department may be employed as a teacher in the public schools of the state until
12 the department has taken action on the application, but in no case may employment
13 without a certificate last longer than three months.

14 * **Sec. 2.** AS 14.20 is amended by adding new sections to read:

1 **Sec. 14.20.015. Recognition of certificates of out-of-state teachers.** (a) The
2 department shall issue a preliminary teacher certificate to an out-of-state teacher who
3 meets the requirements of this section. To be eligible for a preliminary teacher
4 certificate, a person shall

5 (1) have received at least a baccalaureate degree from an institution of
6 higher education accredited by a recognized regional accrediting association or
7 approved by the commissioner;

8 (2) hold a valid teacher certificate issued by another state;

9 (3) have submitted fingerprints to the department to be used for a
10 criminal history background check and been found by the department to be suitable for
11 employment as a teacher under AS 14.20.020(f);

12 (4) have paid the fee required by the department under
13 AS 14.20.020(c).

14 (b) An out-of-state teacher who has been issued a preliminary teacher
15 certificate under this section shall pass the competency examination designated by the
16 board under AS 14.20.020(i) within one year after the date the preliminary teacher
17 certificate was issued. If the teacher does not pass the examination, the department
18 shall immediately revoke the teacher's preliminary teacher certificate.

19 (c) The preliminary teacher certificate issued under this section must contain
20 the same endorsements as those on the current valid teacher certificate issued by the
21 other state.

22 (d) A teacher holding a preliminary teacher certificate issued under this
23 section may be employed to provide instructional services for a school district or
24 regional educational attendance area only if the teacher certificate issued by the other
25 state is valid at the time the teacher commences to provide instructional services for
26 the school district or regional educational attendance area.

27 (e) Employment under a preliminary teacher certificate shall be considered in
28 determining whether a teacher qualifies for tenure under AS 14.20.150. However, a
29 teacher may not be granted tenure unless the teacher holds a teacher certificate issued
30 under AS 14.20.020.

31 (f) A preliminary teacher certificate and any endorsements issued under this

1 section are valid for three years and may not be renewed. The department may not
2 issue a provisional certificate or a temporary certificate to a teacher who has held a
3 preliminary teacher certificate.

4 **Sec. 14.20.017. Grace period for issuance of regular teacher certificates to**
5 **previously certificated teachers.** (a) The department shall issue a teacher certificate
6 as described in AS 14.20.020, subject to revocation, to a teacher who meets the
7 requirements of this section. To be eligible for a revocable teacher certificate under
8 this section, a person shall

9 (1) have held a valid teacher certificate issued under AS 14.20.020 that
10 expired more than 12 months before the teacher applied for a certificate under this
11 section;

12 (2) have paid the fee required by the department under
13 AS 14.20.020(c).

14 (b) A revocable teacher certificate issued under this section is valid for one
15 year, during which the teacher shall complete any requirements for the issuance of a
16 regular teacher certificate under AS 14.20.020 that the teacher has not already met.
17 The department shall expedite the procedures required of teachers holding revocable
18 teacher certificates who are seeking certification under AS 14.20.020.

19 (c) A teacher holding a revocable teacher certificate under this section who
20 previously passed the competency examination designated by the board under
21 AS 14.20.020(i) is not required to retake the examination before being eligible for a
22 regular certificate under AS 14.20.020. A teacher holding a revocable teacher
23 certificate who did not previously take or pass the competency examination shall take
24 and pass the examination within one year after the date the revocable teacher
25 certificate was issued. If the teacher does not pass the examination, the department
26 shall immediately revoke the revocable teacher certificate.

27 (d) A teacher holding a revocable teacher certificate under this section may
28 not receive a teacher certificate issued under AS 14.20.020 until the teacher submits
29 fingerprints to the department to be used for a criminal history background check and
30 the teacher has been found by the department to be suitable for employment as a
31 teacher under AS 14.20.020(f).

1 (e) The revocable teacher certificate issued under this section must contain the
2 same endorsements as those on the teacher's expired teacher certificate.

3 (f) Employment on the basis of a revocable teacher certificate issued under
4 this section shall be considered in determining whether a teacher qualifies for tenure
5 under AS 14.20.150.

6 (g) A revocable teacher certificate and any endorsements issued under this
7 section are valid for one year and may not be renewed under this section. The
8 department may not issue a provisional certificate or a temporary certificate to a
9 teacher who has held a teacher certificate issued under this section.

10 * Sec. 3. AS 14.20 is amended by adding a new section to read:

11 **Sec. 14.20.135. Employment of retired teachers because of shortages.** (a)
12 A school district or regional educational attendance area that has or anticipates having
13 a shortage of teachers qualified to teach in a particular discipline or specialty may, by
14 resolution, adopt a policy that permits the employment of retired teachers who are
15 qualified to teach in the discipline or specialty in accordance with this section. The
16 policy must describe the circumstances that constitute the shortage. If a shortage of
17 teachers exists as described in the policy, the district or attendance area shall notify the
18 administrator of the teachers' retirement system (AS 14.25) that it is hiring retired
19 teachers under this section.

20 (b) A teacher who retired under AS 14.25.110(a) and is subsequently
21 reemployed under this section may, within 30 days after the date of reemployment,
22 elect to continue receiving retirement benefit payments under AS 14.25 during the
23 period of reemployment by filing a waiver of coverage as set out in AS 14.25.043(b).

24 (c) A school district or regional educational attendance area may not employ a
25 teacher, principal, or administrator who participated in a retirement incentive program
26 under ch. 26, SLA 1986, ch. 89, SLA 1989, ch. 65, SLA 1996, ch. 4, FSSLA 1996, or
27 ch. 92, SLA 1997, under this section.

28 (d) A retired teacher employed under this section is not eligible to acquire,
29 maintain, or reacquire tenure under AS 14.20.150.

30 * Sec. 4. AS 14.25.040(a) is amended to read:

31 (a) Unless a teacher or member has elected to participate in the optional

1 university retirement program under AS 14.40.661 - 14.40.799 or has filed an
 2 election under AS 14.25.043(b), a teacher or member contracting for service with a
 3 participating employer is subject to this chapter.

4 * Sec. 5. AS 14.25.040(a) is amended to read:

5 (a) Unless a teacher or member has elected to participate in the optional
 6 university retirement program under AS 14.40.661 - 14.40.799 [OR HAS FILED AN
 7 ELECTION UNDER AS 14.25.043(b)], a teacher or member contracting for service
 8 with a participating employer is subject to this chapter.

9 * Sec. 6. AS 14.25.043 is amended to read:

10 **Sec. 14.25.043. Reemployment of retired members.** (a) If a retired member
 11 again becomes an active member, benefit payments may not be made during the
 12 period of reemployment unless the teacher makes an election under (b) of this
 13 section. The retirement benefit must be suspended for the entire school year if the
 14 teacher is reemployed as an active teacher for a period equivalent to a year of service.
 15 During the period of reemployment, the member is subject to AS 14.25.050 and
 16 deductions from the member's salary will be made in accordance with AS 14.25.050.

17 (b) A school district or regional educational attendance area that has
 18 adopted a policy that permits the employment of retired teachers in accordance
 19 with AS 14.20.135 shall notify the administrator that it is hiring retired teachers
 20 under AS 14.20.135. A teacher who retired under AS 14.25.110(a) and
 21 subsequently becomes an active member under a policy adopted in accordance
 22 with AS 14.20.135 may, within 30 days of the date of reemployment, elect to
 23 continue receiving benefit payments during the period of reemployment by filing
 24 a waiver of coverage with the administrator on a form provided by the
 25 administrator. An election under this subsection waives coverage for the period
 26 of reemployment and is irrevocable during the period of reemployment.
 27 Deductions from the member's salary may not be made under AS 14.25.050
 28 during the period of reemployment, and the member may not receive credited
 29 service for the period of reemployment. A member who participated in a
 30 retirement incentive program under ch. 26, SLA 1986, ch. 89, SLA 1989, ch. 65,
 31 SLA 1996, ch. 4, FSSLA 1996, or ch. 92, SLA 1997, is not eligible to make an

1 election under this subsection.

2 (c) Upon subsequent retirement, the retired member is entitled to receive an
3 additional benefit based on the credited service and the average base salary during the
4 period of reemployment in accordance with AS 14.25.110. If the initial benefit
5 payments to which the retired member is eligible have been actuarially reduced
6 because the member retired early under AS 14.25.110(b), the member shall also
7 receive an incremental benefit based on the amount of the actuarial reduction imposed
8 by AS 14.25.110(j) on the first benefit and the length of time that the employee was
9 reemployed and not receiving retirement benefits. The amount of the incremental
10 benefit is equal to the difference between the normal retirement benefit to which the
11 member would have been entitled had the member taken a normal retirement and the
12 early retirement benefit that the member has been receiving based on the member's
13 initial period of employment multiplied by the total number of months that the
14 member did not receive retirement benefits because of reemployment and that amount
15 actuarially adjusted to be paid over the expected lifetime of the member.

16 * Sec. 7. AS 14.25.043(a) is amended to read:

17 (a) If a retired member again becomes an active member, benefit payments
18 may not be made during the period of reemployment [UNLESS THE TEACHER
19 MAKES AN ELECTION UNDER (b) OF THIS SECTION]. The retirement benefit
20 must be suspended for the entire school year if the teacher is reemployed as an active
21 teacher for a period equivalent to a year of service. During the period of
22 reemployment, [THE MEMBER IS SUBJECT TO AS 14.25.050 AND] deductions
23 from the member's salary will be made in accordance with AS 14.25.050.

24 * Sec. 8. AS 14.25.168(d) is amended to read:

25 (d) A benefit recipient may elect major medical insurance coverage in
26 accordance with regulations and under the following conditions:

27 (1) a person who has less than 25 years of membership service and
28 who is younger than 60 years of age must pay an amount equal to the full monthly
29 group premium for retiree major medical insurance coverage;

30 (2) [A PERSON WHO IS AT LEAST 60 YEARS OF AGE BUT IS
31 YOUNGER THAN 65 YEARS OF AGE MUST PAY AN AMOUNT EQUAL TO

1 ONE-HALF OF THE FULL MONTHLY GROUP PREMIUM FOR RETIREE
2 MAJOR MEDICAL INSURANCE COVERAGE;

3 (3)] a disabled member, a disabled member who is appointed to
4 normal retirement, [OR] a person 60 [65] years of age or older, or a person who has
5 at least 25 years of membership service is not required to make premium payments.

6 * Sec. 9. AS 14.20.135 and AS 14.25.043(b) are repealed July 1, 2005.

7 * Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 REPORT TO LEGISLATURE. Annually, beginning in 2002 and ending in 2006, the
10 administrator of the teachers' retirement system shall report to the legislature by the 30th day
11 of the regular legislative session concerning the effect of this Act on the retirement system.

12 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 REGULATIONS FOR RETIRED TEACHERS. Notwithstanding sec. 14 of this Act,
15 the Alaska Teachers' Retirement Board may immediately proceed to adopt regulations
16 necessary to implement changes made by secs. 4, 6, and 8 of this Act. The regulations take
17 effect under AS 14.25.022, but not before July 1, 2001.

18 * Sec. 12. Section 11 of this Act takes effect immediately under AS 01.10.070(c).

19 * Sec. 13. Sections 5, 7, and 9 of this Act take effect July 1, 2005.

20 * Sec. 14. Except as provided in secs. 12 and 13 of this Act, this Act takes effect July 1,
21 2001.

SENATE CS FOR CS FOR HOUSE BILL NO. 242(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/5/01

Referred: Rules

Sponsor(s): REPRESENTATIVES KOTT, Stevens, Hayes, Dyson, Cissna, Crawford, Guess

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to reemployment of and medical benefits for retired members of the
2 teachers' retirement system and public employees' retirement system; relating to the
3 inclusion of cost-of-living differentials on compensation and benefits under the public
4 employees' retirement system; and providing for an effective date."

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

6 * **Section 1.** AS 14.20 is amended by adding a new section to read:

7 **Sec. 14.20.135. Employment of retired teachers because of shortages.** (a)

8 A school district or regional educational attendance area that has or anticipates having
9 a shortage of teachers qualified to teach in a particular discipline or specialty may, by
10 resolution, adopt a policy that permits the employment of retired teachers who are
11 qualified to teach in the discipline or specialty in accordance with this section. The
12 policy must describe the circumstances that constitute the shortage. If a shortage of
13 teachers exists as described in the policy, the district or attendance area shall notify the
14 administrator of the teachers' retirement system (AS 14.25) that it is hiring retired

1 teachers under this section.

2 (b) A teacher who retired under AS 14.25.110(a) and is subsequently
3 reemployed under this section may, within 30 days after the date of reemployment,
4 elect to continue receiving retirement benefit payments under AS 14.25 during the
5 period of reemployment by filing a waiver of coverage as set out in AS 14.25.043(b).

6 (c) A school district or regional educational attendance area may not employ a
7 teacher, principal, or administrator who participated in a retirement incentive program
8 under ch. 26, SLA 1986; ch. 89, SLA 1989; ch. 65, SLA 1996; ch. 4, FSSLA 1996; or
9 ch. 92, SLA 1997, under this section.

10 (d) A retired teacher employed under this section is not eligible to acquire,
11 maintain, or reacquire tenure under AS 14.20.150.

12 * Sec. 2. AS 14.25.040(a) is amended to read:

13 (a) Unless a teacher or member has elected to participate in the optional
14 university retirement program under AS 14.40.661 - 14.40.799 or has filed an
15 election under AS 14.25.043(b), a teacher or member contracting for service with a
16 participating employer is subject to this chapter.

17 * Sec. 3. AS 14.25.040(a) is amended to read:

18 (a) Unless a teacher or member has elected to participate in the optional
19 university retirement program under AS 14.40.661 - 14.40.799 [OR HAS FILED AN
20 ELECTION UNDER AS 14.25.043(b)], a teacher or member contracting for service
21 with a participating employer is subject to this chapter.

22 * Sec. 4. AS 14.25.043 is amended to read:

23 **Sec. 14.25.043. Reemployment of retired members.** (a) If a retired member
24 again becomes an active member, benefit payments may not be made during the
25 period of reemployment unless the teacher makes an election under (b) of this
26 section. The retirement benefit must be suspended for the entire school year if the
27 teacher is reemployed as an active teacher for a period equivalent to a year of service.
28 During the period of reemployment, the member is subject to AS 14.25.050 and
29 deductions from the member's salary will be made in accordance with AS 14.25.050.

30 (b) A school district or regional educational attendance area that has
31 adopted a policy that permits the employment of retired teachers in accordance

1 with AS 14.20.135 shall notify the administrator that it is hiring retired teachers
 2 under AS 14.20.135. A teacher who retired under AS 14.25.110(a) and
 3 subsequently becomes an active member under a policy adopted in accordance
 4 with AS 14.20.135 may, within 30 days of the date of reemployment, elect to
 5 continue receiving benefit payments during the period of reemployment by filing
 6 a waiver of coverage with the administrator on a form provided by the
 7 administrator. An election under this subsection waives coverage for the period
 8 of reemployment and is irrevocable during the period of reemployment.
 9 Deductions from the member's salary may not be made under AS 14.25.050
 10 during the period of reemployment, and the member may not receive credited
 11 service for the period of reemployment. A member who participated in a
 12 retirement incentive program under ch. 26, SLA 1986; ch. 89, SLA 1989; ch. 65,
 13 SLA 1996; ch. 4, FSSLA 1996; or ch. 92, SLA 1997, is not eligible to make an
 14 election under this subsection.

15 (c) Upon subsequent retirement, the retired member is entitled to receive an
 16 additional benefit based on the credited service and the average base salary during the
 17 period of reemployment in accordance with AS 14.25.110. If the initial benefit
 18 payments to which the retired member is eligible have been actuarially reduced
 19 because the member retired early under AS 14.25.110(b), the member shall also
 20 receive an incremental benefit based on the amount of the actuarial reduction imposed
 21 by AS 14.25.110(j) on the first benefit and the length of time that the employee was
 22 reemployed and not receiving retirement benefits. The amount of the incremental
 23 benefit is equal to the difference between the normal retirement benefit to which the
 24 member would have been entitled had the member taken a normal retirement and the
 25 early retirement benefit that the member has been receiving based on the member's
 26 initial period of employment multiplied by the total number of months that the
 27 member did not receive retirement benefits because of reemployment and that amount
 28 actuarially adjusted to be paid over the expected lifetime of the member.

29 * Sec. 5. AS 14.25.043(a) is amended to read:

30 (a) If a retired member again becomes an active member, benefit payments
 31 may not be made during the period of reemployment [UNLESS THE TEACHER

1 **MAKES AN ELECTION UNDER (b) OF THIS SECTION].** The retirement benefit
 2 must be suspended for the entire school year if the teacher is reemployed as an active
 3 teacher for a period equivalent to a year of service. During the period of
 4 reemployment, **[THE MEMBER IS SUBJECT TO AS 14.25.050 AND]** deductions
 5 from the member's salary will be made in accordance with AS 14.25.050.

6 * **Sec. 6.** AS 14.25.168(d) is amended to read:

7 (d) A benefit recipient may elect major medical insurance coverage in
 8 accordance with regulations and under the following conditions:

9 (1) a person who **has less than 25 years of membership service and**
 10 **who** is younger than 60 years of age must pay an amount equal to the full monthly
 11 group premium for retiree major medical insurance coverage;

12 (2) **[A PERSON WHO IS AT LEAST 60 YEARS OF AGE BUT IS**
 13 **YOUNGER THAN 65 YEARS OF AGE MUST PAY AN AMOUNT EQUAL TO**
 14 **ONE-HALF OF THE FULL MONTHLY GROUP PREMIUM FOR RETIREE**
 15 **MAJOR MEDICAL INSURANCE COVERAGE;**

16 (3)] a disabled member, **a disabled member who is appointed to**
 17 **normal retirement,** **[OR] a person 60 [65] years of age or older, or a person who has**
 18 **at least 25 years of membership service** is not required to make premium payments.

19 * **Sec. 7.** AS 39.35.120(b) is amended to read:

20 (b) Inclusion in the system is a condition of employment for an employee
 21 except as otherwise provided for an

22 **(1) elected official;**

23 **(2) employee making an election under AS 39.35.150(b);** and

24 **(3) [FOR AN] employee of the university who has elected to**
 25 participate in the optional university retirement program under AS 14.40.661 -
 26 14.40.799.

27 * **Sec. 8.** AS 39.35.150 is amended to read:

28 **Sec. 39.35.150. Re-employment of retired employees. (a)** If a retired
 29 employee subsequently becomes an active member, benefit payments may not be
 30 made during the period of re-employment **unless the member makes an election**
 31 **under (b) of this section.** During the period of re-employment, deductions from the

1 employee's salary shall be made in accordance with AS 39.35.160. Upon subsequent
 2 retirement, the retired employee is entitled to receive an additional pension based on
 3 the credited service and the average monthly compensation earned during the period
 4 of re-employment in accordance with AS 39.35.370.

5 (b) A member who retired under AS 39.35.370(a) and subsequently
 6 becomes an active member may, within 30 days of the date of reemployment,
 7 elect to continue receiving benefit payments during the period of reemployment
 8 by filing an election with the administrator on a form provided by the
 9 administrator. An election under this subsection waives coverage for the period
 10 of reemployment and is irrevocable during the period of reemployment. During
 11 the period of reemployment, deductions from the member's salary may not be
 12 made under AS 39.35.160 and the member may not receive credited service. A
 13 member who participated in a retirement incentive program under ch. 26, SLA
 14 1986; ch. 89, SLA 1989; ch. 65, SLA 1996; ch. 4, FSSLA 1996; or ch. 92, SLA
 15 1997, is not eligible to make an election under this subsection.

16 (c) A member who has not made an election under (b) of this section is
 17 subject to AS 39.35.120 and 39.35.160.

18 (d) If the initial benefit payments to which the retired member is eligible have
 19 been reduced because the member retired early under AS 39.35.370(b) or increased
 20 because the member elected to receive a level income option benefit under former
 21 AS 39.35.460, the member shall also receive an incremental benefit based on the
 22 amount of the reduction imposed by AS 39.35.370(b) or the increase under former
 23 AS 39.35.460 on the first benefit and the length of time that the employee was
 24 reemployed and not receiving retirement benefits. The amount of the incremental
 25 benefit is equal to the difference between the normal retirement benefit to which the
 26 member would have been entitled had the member taken a normal retirement and the
 27 early retirement benefit or benefit under the level income option that the member has
 28 been receiving based on the member's initial period of employment multiplied by the
 29 total number of months that the member did not receive retirement benefits because of
 30 reemployment and that amount actuarially adjusted to be paid over the expected
 31 lifetime of the member. In the case of a member who selected benefits under the level

1 income option, the total number of months may not include any month in which the
2 member was 65 years of age or older.

3 * Sec. 9. AS 39.35.150(a) is amended to read:

4 (a) If a retired employee subsequently becomes an active member, benefit
5 payments may not be made during the period of re-employment [UNLESS THE
6 MEMBER MAKES AN ELECTION UNDER (b) OF THIS SECTION]. During the
7 period of re-employment, deductions from the employee's salary shall be made in
8 accordance with AS 39.35.160. Upon subsequent retirement, the retired employee is
9 entitled to receive an additional pension based on the credited service and the average
10 monthly compensation earned during the period of re-employment in accordance with
11 AS 39.35.370.

12 * Sec. 10. AS 39.35.535(c) is repealed and reenacted to read:

13 (c) A benefit recipient may elect major medical insurance coverage in
14 accordance with regulations and under the following conditions:

15 (1) a person, other than a disabled member or a disabled member who
16 is appointed to normal retirement, must pay an amount equal to the full monthly group
17 premium for retiree major medical insurance coverage if the person is

18 (A) younger than 60 years of age and has less than

19 (i) 25 years of credited service as a peace officer under
20 AS 39.35.360 and 39.35.370; or

21 (ii) 30 years of credited service under AS 39.35.360 and
22 39.35.370 that is not service as a peace officer; or

23 (B) of any age and has less than 10 years of credited service;

24 (2) a person is not required to make premium payments for retiree
25 major medical coverage if the person

26 (A) is a disabled member;

27 (B) is a disabled member who is appointed to normal
28 retirement;

29 (C) is 60 years of age or older and has at least 10 years of
30 credited service; or

31 (D) has at least

1 (i) 25 years of credited service as a peace officer under
2 AS 39.35.360 and 39.35.370; or

3 (ii) 30 years of credited service under AS 39.35.360 and
4 39.35.370 not as a peace officer.

5 * Sec. 11. AS 39.35.675(b) is amended to read:

6 (b) The amount of a cost-of-living differential may not be included in the
7 employee's compensation for purposes of calculating benefits paid under this chapter
8 unless the employee has received a cost-of-living differential [IN A COMPARABLE
9 AMOUNT OR OF AT LEAST THAT MANY STEPS] for at least 50 percent of the
10 employee's credited service.

11 * Sec. 12. AS 14.20.135; AS 14.25.043(b); AS 39.35.120(b)(2), 39.35.150(b), and
12 39.35.150(c) are repealed July 1, 2005.

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

15 REPORT TO LEGISLATURE. Annually, beginning in 2002 and ending in 2006, the
16 administrator of the teachers' retirement system shall report to the legislature by the 30th day
17 of the regular legislative session concerning the effect of this Act on the retirement system.

18 * Sec. 14. The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 TRANSITION: REGULATIONS. (a) Notwithstanding sec. 17 of this Act, the
21 Alaska Teachers' Retirement Board may immediately proceed to adopt regulations necessary
22 to implement changes made by secs. 2, 4, and 6 of this Act. The regulations take effect under
23 AS 14.25.022, but not before July 1, 2001.

24 (b) Notwithstanding sec. 17 of this Act, the Public Employees' Retirement Board may
25 immediately proceed to adopt regulations necessary to implement changes made by secs. 7, 8,
26 10, and 11 of this Act. The regulations take effect under AS 39.35.042, but not before July 1,
27 2001.

28 * Sec. 15. Sections 3, 5, 9, and 12 of this Act take effect July 1, 2005.

29 * Sec. 16. Section 14 of this Act takes effect immediately under AS 01.10.070(c).

30 * Sec. 17. Except as provided in secs. 15 and 16 of this Act, this Act takes effect July 1,
31 2001.

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

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ADMINISTRATIVE ORDER NO. 225

FINDINGS

I, Frank H. Murkowski, Governor of the State of Alaska, make the following findings:

1. Provisions of ch. 57, SLA 2001, commonly known as the retiree rehire provisions of HB 242, permit certain retirees who return to work in positions normally covered by the public employees' and teachers' retirement systems to waive active coverage under the retirement systems and continue to receive state retirement benefits while working.

2. The purpose of the retiree rehire provisions of HB 242 is to provide a management tool to help address existing and anticipated recruitment problems faced by public employers who participate in the retirement systems. The executive branch of state government is currently facing demonstrated recruitment difficulties in a variety of job classes, particularly those job classes that require specific education or that require a strong professional work history that is usually gained over a period of time working in a professional field.

3. Consistent application of the retiree rehire program of HB 242 is especially important for recruitment for positions in the classified service to ensure that the principles of collective bargaining are consistently met. Furthermore, it is essential that managers in all state agencies anticipate and plan for the eventuality of retirement of the state's seasoned workforce in the ~~classified service in a manner that does not undermine the state's workforce~~ or create morale problems among less experienced staff who are preparing for promotional opportunities created by retirement of their coworkers.

4. The retiree rehire provisions of HB 242 sunset on July 1, 2005, and legislation extending the use of this valuable management tool and addressing participation by current rehired retirees is unlikely to pass and be enacted into law unless the retiree rehire program is properly managed to meet the Legislature's original intent.

ORDER

Under the authority of art. III, secs. 1 and 24, of the Alaska Constitution, I, Frank H. Murkowski, Governor of the State of Alaska, order the following regarding appointment of rehired retirees to positions in the classified service of the executive branch of state government:

1. The hiring authority shall use the following competitive process for recruitment:
 - A. an applicant must be recruited through a competitive process before an appointment is made;
 - B. the recruitment must have been posted on Workplace Alaska for at least 15 days before an appointment is made;
 - C. the hiring authority must consider all applicants before making the appointment; and
 - D. if the selected applicant would be appointed using the retiree rehire provisions of HB 242, the applicant must have been separated from state service for at least 30 days.

2. Before a position is offered to an applicant using the retiree rehire provisions of HB 242:
 - A. the recruitment described in (1) of this Order must have resulted in an applicant pool of fewer than five qualified, eligible, and available applicants;
 - B. the hiring authority must demonstrate why no other applicant will have the knowledge, skills, or ability to perform the duties of the positions after the full probationary period; and
 - C. the approval for the hire must have been secured in writing from the director of personnel in the Department of Administration.

3. Within 60 days after receipt of the director of personnel's approval under (2)(C) of this Order and the acceptance of the position by the person under the retiree rehire provisions of HB 242, the hiring authority shall work with the division of personnel in the Department of Administration to develop a plan that addresses:

- A. the critical components of the position;
- B. the knowledge, skills, and abilities that need to be developed in the workplace to assure that the work can be accomplished when the rehired retiree leaves state service; and
- C. a development plan for accomplishing the transfer of knowledge.

4. Step placement for the salary of an appointee under the retiree rehire program of HB 242 shall be determined by the hiring authority in accordance with applicable statutes, personnel rules, collective bargaining agreements, and enforceable policies and procedures.

5. State agencies are encouraged to develop a strategic view of human resource needs, including the development of a workforce plan, with the assistance of the division of personnel, to address the future needs of the state agency.

DEFINITION

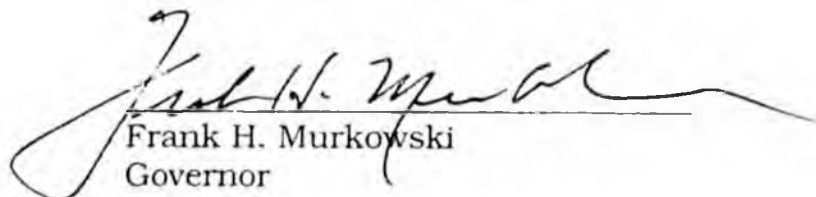
In this Order, "state agency" means a department, office, or other organizational unit of the executive branch of state government; "state agency" includes a state board, commission, authority, or independent state agency assigned to a department for administrative purposes.

APPLICABILITY

This Order applies to all appointments made to the classified service of the executive branch of state government on or after the effective date of this Order.

This Order takes effect immediately.

DATED at Juneau, Alaska, this 8 day of March, 2005.


Frank H. Murkowski
Governor

March 14, 2005

Dear Senator Dyson and members of the Senate Health, Education and Social Services committee.

I'm writing in opposition of SB24, the retire and rehire bill. This is a bad piece of legislation for the people of this great state and state employees.

- **Significantly reduces upward mobility of employees**

By allowing employees, typically those in higher on the ladder, to retire from their jobs and be rehired 30 days later, stops all upward mobility of junior employees. As a result, junior employees are forced to look for work in the private sector or federal government. To maintain good services for the people of this state, we need to continue to train, promote and retain junior employees, not force them from their jobs. They are the future.

- **This law has a negative effect on the PERS system.**

Under the current retire and rehire law, rehired employees are double dipping and not contributing to PERS. That is, most receive their retirement check and a paycheck. Neither the employee nor the employer contribute to PERS. As we all know, PERS is in trouble. Every working employee must contribute to PERS. We cannot afford the luxury of having thousands of employees not contributing to PERS. If SB24 becomes law, it is a very likely that the ranks of "retire and rehire employees" will swell, putting further downward pressure on an already crippled PERS system. We cannot afford to stand by and allow this to happen.

- **Cronyism at it's worst.**

If you are in the "good old boys or girls club" you are guaranteed to get your job back after you retire for a minimum of 30 days. However, if you are not a favored son or daughter there is no guarantee that you will be hired back into the job you just vacated. Everyone knows when someone will be hired back into their job and therefore subordinates and others refuse to apply for the position knowing full well they will not be hired.

- **Widespread abused of the current law.**

Instead of applying the retire and rehire law to just a few isolated cases where recruitment may be difficult, it has been applied widely and has become **standard operating procedure** in state government. Even clerks have been hired back. There is absolutely no way to safeguard against this. There are just too many ways around it.

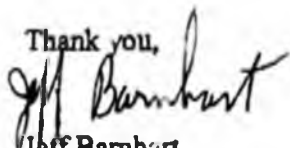
- **Double-dipping is very bad PR**

I've had the public stop me at the grocery store to ask how state employees are permitted to retire and be hired back into the position they just vacated. They were very upset and called the employees "double-dippers" among other terms.

Summary

In summary, I'm encouraging you to vote against this legislation. In case you are wondering; yes, I'm in a position to retire and be rehired, so if passed, this bill could potentially benefit me. However, I'm opposed to the bill because it leads us down a path of keeping older, more expensive employees, who are not contributing to PERS, while at the same time, precluding junior employees from becoming more experienced and advancing their careers.

Thank you,



Jeff Barnhart
11276 Belis Flat Road
Kodiak, AK 99615



CITY OF KENAI

" Oil Capital of Alaska "

210 FIDALGO AVE., SUITE 200 KENAI, ALASKA 99611-7794
TELEPHONE 907-283-7535
FAX 907-283-3014



January 6, 2005

Governor Frank Murkowski
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

RE: **CITY OF KENAI RESOLUTION NO. 2005-02 - SUPPORTING LEGISLATION TO
CONTINUE THE REHIRED RETIREE EMPLOYMENT WAIVER PROGRAM ENACTED BY
HB242 IN 2001 FOR THOSE CURRENTLY ENROLLED.**

Dear Governor Murkowski:

Enclosed is a copy of the City of Kenai Resolution No. 2005-02 which was unanimously passed at the January 5, 2005 meeting of the Kenai City Council.

Through their resolution, the Council has stated its concern the interpretation of HB242 has changed since the bill was enacted; the provisions of the bill, through information provided in writing by the Division of Retirement and Benefits, was used as a basis for negotiating agreements by the City of Kenai, its employees, as well as other public employees throughout the state; these negotiations were done in good faith; and, the stated terms and conditions should be honored.

The City of Kenai supports legislation to continue the Rehired Retiree Employment Waiver Program enacted by HB242 in 2001 for those currently enrolled in the program and also supports such legislation to be acted upon early in the 2005 session.

If you have any questions, please contact this office.

CITY OF KENAI

A handwritten signature in cursive script, appearing to read "Carol L. Freas".

Carol L. Freas
City Clerk

Clf

Enclosure

cc: 24th Alaska State Legislature

Suggested by: Administration

City of Kenai

RESOLUTION NO. 2005-02

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA SUPPORTING LEGISLATION TO CONTINUE THE REHIRED RETIREE - EMPLOYMENT WAIVER PROVISION OF HB242 FOR THOSE MEMBERS CURRENTLY ENROLLED UNDER THIS PROVISION.

WHEREAS, in 2001 the State Legislature enacted HB242 which provided that retired PERS members could be rehired by PERS employers and continue to receive normal retirement benefits; and,

WHEREAS, the July 1, 2005 sunset provision in the bill was interpreted by the Alaska Division of Retirement and Benefits to be the final date to be reemployed under this program; and,

WHEREAS, the Division of Retirement and Benefits further stated in writing that "any member who is participating in the program and continues employment after July 1, 2005 will be allowed to continue participating in the plan"; and,

WHEREAS, the City and its eligible members relied upon the information provided by the Division of Retirement and Benefits; and,

WHEREAS, agreements with employees were negotiated in good faith and the stated terms and conditions should be honored.

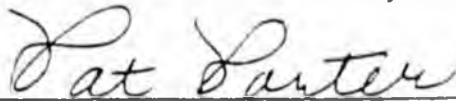
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that:

Section 1: The City Council of the City of Kenai supports legislation that will continue the Rehired Retiree - Employment Waiver program enacted by HB242 in 2001, for those members currently enrolled in that program.

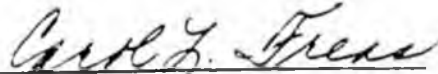
Section 2: That such legislation will be acted on early in the 2005 session


Section 3: That this resolution be sent to Governor Murkowski and all members of the Alaska State Legislature.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this fifth day of January, 2005.


PAT PORTER, MAYOR

ATTEST:


Carol L. Freas, City Clerk

Approved by Finance: 
(12/21/2004) hl

Keith Kornelis

From: Peter Fisher [Pete_fisher@admin.state.ak.us]
Sent: Tuesday, July 01, 2003 11:01 AM
To: Keith Kornelis
Subject: Re: PERS retirement and back to work

Good Morning:

HB 242 which was recently passed by the legislature allows a member who took normal retirement and has been terminated for 30 days to go back to work with a PERS employer and waive their right to any further PERS accrual under the PERS. By doing this the member would be allowed to continue to receive their monthly benefits as well as their salary from the employer.

By waiving their PERS the member would not accrue any additional service under the PERS, so they would not be increasing their monthly benefits, and would not be making any contributions to the PERS. If the member wishes to do this they must sign the waiver within 30 days of reemployment.

This program is slated to end in July 2005. All members participating in the program on the sunset date will be allowed to continue, but no one will be allowed to enroll after that date.

If a member is participating in this program and is provided health insurance by their employer that insurance will be primary to the retiree insurance. I do not know if the City of Kenai's employee medical plan gives you the right to opt out of that coverage. You will need to discuss this issue with the City.

You will need to talk to the Social Security Administration (SSA) and the City concerning your question regarding social security taxes. The question about if you will have to contribute to social security will rest on the type of agreement the City has with SSA and the rules which apply to that agreement. I have no information I can provide to you on this subject.

Pete

Keith Kornelis wrote:

- > Pete,
- >
- > The PERS system allows City of Kenai employees to retire under the normal PERS retirement system, when eligible, and then go back to work for the City of Kenai outside of the PERS system. Where can I find information on this?
- >
- > A Municipality of Anchorage employee told me he did this in Anchorage. He said that he thought that the city and himself would be required to pay Social Security when he started to work for Anchorage outside of PERS but his first paycheck did not have Social Security taken out. When he asked why, the City of Anchorage said when he is on retirement income from PERS he can not pay into Social Security. He said he contacted PERS and they said that is correct. Is this true?
- >
- > Evidently the City is not paying PERS, nor Social Security, nor medical insurance (since the employee would be on PERS insurance).
- >
- > Would you please let me know the details on this.
- >
- > Thank you,
- >
- > Keith Kornelis, Public Works Manager
- > 907-283-8232 City Safety Coordinator
- > Fax 283-3014 Harbormaster

Robin Feltman

4/3-104

From: Peter Fisher [pete_fisher@admin.state.ak.us]
Sent: Friday, April 30, 2004 10:38 AM
To: Robin Feltman
Subject: Re: PERS Waiver Option

Hi Robin:

If they sign the waiver form and elect not to participate in PERS during the period of reemployment they could not change their mind a month later and say they want to participate in PERS.

This program is scheduled to sunset as of 7/1/2005. If they terminate their employment, after signing the waiver, and then come back to work after July 1, 2005 they would be entered in PERS again and their benefit would be stopped during the period of reemployment. Any member who is participating in the program and continues employment after 7/1/2005 will be allowed to continue participating in the plan. However, no one will be allowed to elect to sign up for the plan after 7/1/05 unless the legislature votes to continue the program.

An employer does not elect to participate in the plan or not, it should be offered to any retiree, who took a normal retirement benefit, who returns to active employment with a PERS employer. The employer can, of course, elect not to hire the retiree, but the idea is to help the employer attract a qualified or retain a qualified employee and save dollars because the employer would contribute less to the retirement system.

Pete

Robin Feltman wrote:

- > Pete- We have been having some discussions on the PERS Waiver Option-Reemployed Retiree. On the form it says that the waiver is irrevocable for the period of reemployment. What does that mean?
- >
- > During their reemployment with the City of Kenai?
- >
- > If they retire, sign the waiver option, work for a while then quit again and come back at a later date (after June 30, 2005), will they be in PERS with the City of Kenai again and their retirement benefit will be stopped?
- >
- > What if they quit and go to work for the Kenai Borough who isn't offering this option?
- >
- > If this is too confusing, please give me a call. Thanks Robin 907-283-8229

March 7, 2005

Attention Gary Stevens & Committee

Re: SB24

Dear Mr. Stevens & Committee:

My name is Dan Young & I work for the City of Kenai, Dept. of Public Works, water & sewer foreman, where I have been employed for 25 years.

I am a tier 1 & joined the "Retirement-Back to Work Program" last June (2004), after months of very careful research, and consultation with PERS & the City of Kenai. The opportunity to join this program was to "sunset" (end) in June of 2005 - NOT the "retirement-rehire, back-to-work" benefits program. This program was made very clear to us by PERS counselors, as well as the City of Kenai. There were only a few City employees who were even eligible to accept this retirement-rehire package.

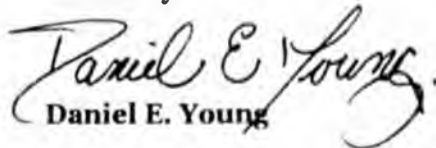
I had to cash-in ALL of my \$30,000 retirement stocks, with the City of Kenai, to buy my 4 years of Coast Guard time to add to my PERS retirement, which was encouraged by the PERS consultant. Every dime I had in the City of Kenai retirement program has gone to the State of Alaska PERS system.

The only reason, I considered this program in the first place, was to try and get my house paid off before my 75th birthday.

NEVER, would I, or anyone else on their right mind, of considered entering this PERS-retirement-rehire system for only 12 months of PERS benefits.

It will be an extreme financial hardship to lose this retirement-rehire benefit. PLEASE understand I had to make many life altering decisions to enter this PERS retirement-rehire program that was presented as a lifetime offer & NOT an offer for 12 months.

Sincerely


Daniel E. Young

City of Kenai
Dept. of Public Works
Water-Sewer Foreman



CITY OF KENAI

" Oil Capital of Alaska."

210 FIDALGO AVE., SUITE 200 KENAI, ALASKA 99611-7794
TELEPHONE 907-283-7535
FAX 907-283-3014



January 6, 2005

Governor Frank Murkowski
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

RE: **CITY OF KENAI RESOLUTION NO. 2005-02 - SUPPORTING LEGISLATION TO
CONTINUE THE REHIRED RETIREE EMPLOYMENT WAIVER PROGRAM ENACTED BY
HB242 IN 2001 FOR THOSE CURRENTLY ENROLLED.**

Dear Governor Murkowski:

Enclosed is a copy of the City of Kenai Resolution No. 2005-02 which was unanimously passed at the January 5, 2005 meeting of the Kenai City Council.

Through their resolution, the Council has stated its concern the interpretation of HB242 has changed since the bill was enacted; the provisions of the bill, through information provided in writing by the Division of Retirement and Benefits, was used as a basis for negotiating agreements by the City of Kenai, its employees, as well as other public employees throughout the state; these negotiations were done in good faith; and, the stated terms and conditions should be honored.

The City of Kenai supports legislation to continue the Rehired Retiree Employment Waiver Program enacted by HB242 in 2001 for those currently enrolled in the program and also supports such legislation to be acted upon early in the 2005 session.

If you have any questions, please contact this office.

CITY OF KENAI

A handwritten signature in cursive script, reading "Carol L. Freas".

Carol L. Freas
City Clerk

Clf

Enclosure

cc: 24th Alaska State Legislature

Suggested by: Administration

City of Kenai

RESOLUTION NO. 2005-02

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA SUPPORTING LEGISLATION TO CONTINUE THE REHIRED RETIREE - EMPLOYMENT WAIVER PROVISION OF HB242 FOR THOSE MEMBERS CURRENTLY ENROLLED UNDER THIS PROVISION.

WHEREAS, in 2001 the State Legislature enacted HB242 which provided that retired PERS members could be rehired by PERS employers and continue to receive normal retirement benefits; and,

WHEREAS, the July 1, 2005 sunset provision in the bill was interpreted by the Alaska Division of Retirement and Benefits to be the final date to be reemployed under this program; and,

WHEREAS, the Division of Retirement and Benefits further stated in writing that "any member who is participating in the program and continues employment after July 1, 2005 will be allowed to continue participating in the plan"; and,

WHEREAS, the City and its eligible members relied upon the information provided by the Division of Retirement and Benefits; and,

WHEREAS, agreements with employees were negotiated in good faith and the stated terms and conditions should be honored.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, that:

Section 1: The City Council of the City of Kenai supports legislation that will continue the Rehired Retiree - Employment Waiver program enacted by HB242 in 2001, for those members currently enrolled in that program.

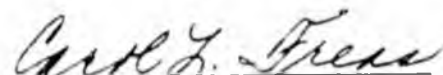
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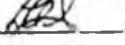
Section 3: That this resolution be sent to Governor Murkowski and all members of the Alaska State Legislature.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this fifth day of January, 2005.


PAT PORTER, MAYOR

ATTEST:


Carol L. Freas, City Clerk

Approved by Finance: 
(12/21/2004) hl

December 14, 2004

Ray Matiashowski, Commissioner
State of Alaska, Dept. of Administration
P.O. Box 110203
Juneau, AK 99811-0203

Subject: HB 242 Rehired Retiree – PERS Employment Waiver

Dear Commissioner Matiashowski,

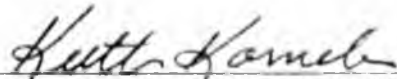
The PERS employment waiver option allows a retiree to reemploy with a PERS employer and continue to receive PERS retirement benefits.

Your letter of November 3, 2004 conveying the State Attorney General Office's opinion that employees enrolled under this PERS waiver program will not be allowed to continue with this program after June 30, 2005 has caused much distress for the six employees working for the City of Kenai that are participating in the program.

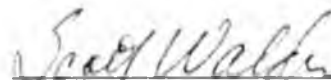
The State of Alaska, Division of Retirement and Benefits assured the City of Kenai and its employees in writing that **"Any member who is participating in the program and continues employment after 7/1/2005 will be allowed to continue participating in the plan."** We expect to continue working under the PERS waiver program as it was described to us by the state.

- The July 1, 2005 date in HB 242 was the date set when employees could no longer enroll in the PERS waiver program. It doesn't make sense to allow employees to enroll in the PERS waiver program right up to the same date they would be required to rejoin the PERS on July 1, 2005. If the intent were to discontinue benefits to PERS waiver participants on June 30, 2005 the legislature would have stopped program enrollment long before July 1, 2005.
- The stated intent of this legislation is to attract and retain a strong skilled work force. It has been very successful for the City of Kenai, and also saved the city money, and will save PERS money in the long run.
- The City of Kenai has 6 of the 308 statewide employees participating in this PERS waiver program. Two are Department Heads, three are Foreman, and one is a Fire Captain. A timely resolution to this problem is very important. The city is starting our budget process and this has an impact on the budget and possible hiring concerns of replacing very experienced supervisors.

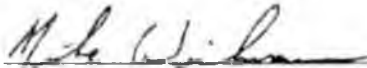
- Employees made PERS decisions based on Alaska Division of Retirement and Benefits' assurance that the current participants in the PERS waiver program would continue. Joint Survivor Option, Dental-Vision-Audio, and Long-Term Care Insurance decisions may have been different if employees had been advised they could no longer participate in the PERS waiver program after July 1, 2005. Many would have taken the 100% benefit instead of the Joint Survivor Option if they knew it was for only for a short period of time and not chosen to pay for the Dental-Vision-Audio option if they thought they might be returning to the city's insurance plan.
- Employees have made financial, personal, and life-altering decisions based on the Alaska Division of Retirement and Benefits representing that the PERS waiver program would continue. Investments, contracts, loans, and retirement decisions have been based on the PERS waiver program continuing. Discontinuing the waiver program will significantly affect employee's futures.
- If participating employees who elected the PERS waiver option were discontinued on July 1, 2005, the results would be confusing. The second time an employee retires do they get to make all new benefit decisions? When the employee goes off PERS medical insurance and back on the employers insurance will new deductibles start? Does the time in the waiver program count as time before the cost of living increase goes into affect?
- On May 5, 2004 the City of Kenai passed a resolution limiting future opt-out PERS participants to 5 years in the PERS waiver option program. The city interpreted HB 242 and was told by Alaska Division of Retirement and Benefits that the PERS waiver option program would continue for enrolled participants beyond July 1, 2005.



Keith Kornelis, Public Works Manager
1-907-283-8232



Scott Walden, Fire Chief
1-907-283-7666



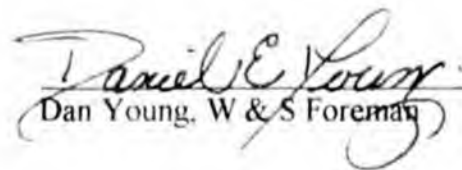
Mike Wichman, Shop Foreman



Walt Williamson, Fire Captain



Fred Macvie, STP Foreman



Dan Young, W & S Foreman