



# LAWS OF ALASKA

1970

Source

HCSSB 463 am H

Chapter No.

109

## AN ACT

Relating to the public employee's retirement system; and providing for an effective date.

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

\* Section 1. AS 39.35.040(5)(A) is amended to read:

(A) an appropriate contribution rate for the state not to exceed eight per cent of the compensation paid to participating state employees; in addition the state shall pay the appropriate social security contribution; and

\* Sec. 2. AS 39.35.100(b)(1) is amended to read:

(1) An individual account shall be maintained for each employee to which the amount of his mandatory contributions collected under sec. 160(a) of this chapter shall be credited as of the date of deduction or payment, as the case may be. As of the last day of each calendar year and each fiscal year beginning with June 30, 1969, this account shall be credited with interest, by applying one-half of the prescribed rate of interest to the balance in the account as of that date. Upon granting a pension, or upon payment of a death or a refund benefit, the balance of the employee contribution account shall be transferred to the asset share account of the employer of the employee and the employee contribution account shall be charged with the amount transferred.

\* Sec. 3. AS 39.35.100(b)(2) is amended to read:

(2) An individual account shall be maintained for each employee to which the amount of his voluntary contributions shall be credited as of the date of deduction or payment, as the case may be. As of the last day of each calendar year and each fiscal year beginning with June 30,

1969, this account shall be credited with interest, by applying one-half of the prescribed rate of interest to the balance in the account as of that date. Amounts which, before termination of employment, are withdrawn by an employee savings account shall be charged to that account. Upon an employee's retirement or death, the balance of his employee savings account shall be transferred to the asset share account of the employer of the employee and the employee savings account shall be charged with the amount transferred.

\* Sec. 4. AS 39.35.150 is amended to read:

Sec. 39.35.150. RE-EMPLOYMENT OF RETIRED EMPLOYEES.  
(a) If a retired employee is re-employed on a regular full-time basis by an employer, no pension payments may be made during the period of re-employment. During the period of re-employment, deductions from salary may be made at the option of the employee for contributions to the retirement fund as provided in sec. 160 of this chapter. Upon the subsequent retirement of the employee, he is entitled to receive a pension based on his credited service and compensation before the date of his previous retirement and, if he elects to make contributions to the fund during his re-employment, his credited service and compensation during the period of re-employment.

(b) In the case of re-employment of an employee who retires under secs. 370(c) or 380 of this chapter, the pension payable upon the employee's subsequent retirement shall be reduced by the actuarial equivalent of early retirement benefits previously received by the employee.

\* Sec. 5. AS 39.35.160(a) is amended to read:

(a) While participating in the system each peace officer and each fireman shall contribute five per cent and every other employee shall contribute three and one-half per cent of his compensation to the public employees' retirement system.

\* Sec. 6. AS 39.35.370(c) is repealed and re-enacted to read:

(c) The monthly amount of the normal retirement pension for a peace officer or a fireman is two per cent of his average monthly compensation times his years of credited service up through 10 years, plus two and one-half per cent of his average monthly compensation times his years of service over 10 years. For every other employee it is one per cent of his average monthly compensation times his years of service up through 10 years, plus one and one-half per cent of his average monthly compensation times his years of service from 11 through 20, plus two per cent of his average monthly compensation times his years of service over 20 years.

\* Sec. 7. AS 39.35.380(a) is amended to read:

(a) An employee, other than a peace officer or fireman, is eligible for an early retirement pension if his employment is terminated on or after his 55th birthday and

after he completes eight or more years of credited service. A peace officer or fireman is eligible for an early retirement pension if his employment is terminated on or after his 50th birthday and after he completes eight or more years of credited service as a peace officer or fireman.

\* Sec. 8. AS 39.35.390(a) is amended to read:

(a) An employee is eligible for a deferred vested retirement benefit if his employment is terminated on or after attainment of eight years of credited service and he does not withdraw the balance in his employee contribution account.

\* Sec. 9. AS 39.35.400(c) is amended to read:

(c) If the retired employee recovers from the nonoccupational disability, he is entitled to receive a normal or early retirement pension if he would have been eligible for the pension had his employment continued during the period of disability. However, the period of disability does not constitute credited service.

\* Sec. 10. AS 39.35.400(d) is amended to read:

(d) The monthly amount of the nonoccupational disability pension shall be determined in accordance with sec. 370(c) of this chapter, considering the employee's credited service and compensation before termination of employment. However, the amount shall be reduced by wage continuation payments which are available to the employee and which are attributable to the employers. The amount may not exceed the benefit determined in accordance with sec. 410(d) of this chapter.

\* Sec. 11. AS 39.35.410 is amended to read:

Sec. 39.35.410. OCCUPATIONAL DISABILITY PENSIONS.

(a) An employee is eligible for an occupational disability pension if his employment is terminated because of an occupational disability before his normal retirement date.

(b) Payment of the occupational disability pension shall begin on the first day of the month next following a period of three full months after the last day of employment, except that the board may, in its discretion, authorize the pension to begin upon the first day of an earlier month following termination of his employment. If payment does not begin upon the first day of the month coincidental with or after retirement, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made as of the first day of the month in which the death of the retired employee occurs or in which he recovers from occupational disability before his normal retirement date.

(c) If the retired employee recovers from the occupational disability before his normal retirement date, the retired employee shall then be entitled to receive an early retirement pension if he would have been eligible for the pension had his employment continued during the period of disability. The period of disability constitutes

credited service for all employees.

(d) The monthly amount of an occupational disability pension for a peace officer or a fireman shall be two-thirds of his gross monthly compensation at the time of his disability. For any other employee it shall be determined in accordance with sec. 370(c) of this chapter, considering (1) the employee's compensation before his termination of employment, and (2) either the credited service that would have been accumulated if the employee's employment had continued until his 60th birthday or his actual credited service, whichever is greater; except that the amount so determined shall be reduced by assuming that a joint and survivor option of 75 per cent became immediately effective upon retirement, with the employee's spouse as contingent beneficiary. If no spouse exists at the time of actual retirement, the pension shall be determined as if the spouse were the same age as the employee.

(e) An employee's occupational disability pension shall be reduced by any workmen's compensation or wage continuation payments which are available to the employee and which are attributable to the employers.

(f) An employee is not entitled to an occupational disability pension unless he files an application for it with the board within six months after the date of the accident, if disability is attributable to an accident, or within six months after the date his disability begins if the disability is caused by an occupational disease. If the disability is attributable to an accident, the employee shall file a notice of the accident with the board within 30 days following the date it occurred. This 30-day filing period is suspended for the time the employee's condition prevents him from filing.

(g) A retired employee receiving an occupational disability pension shall be required, as often as the personnel director of the state considers advisable, but not more frequently than once a year, to undergo a medical examination at a place determined by the personnel director and by a physician or physicians engaged by the director. If, in the judgment of the board, the examination indicates that the retired employee is no longer incapacitated for service in the position held at the time his disability pension began, payments of his disability pension shall cease. The employee shall then be reappointed to a position of the same classification in which he was employed at the time of his disability provided he still meets all other necessary requirements for that position, unless he elects to receive an early retirement pension in accordance with (c) of this section. In any event, the disability pension shall not cease until the employee is either reappointed, retired or otherwise disqualified from receiving a benefit by being disqualified for reappointment.

(h) A retired employee's occupational disability pension shall terminate when the employee first attains eligibility for normal retirement. At that time, his retirement benefit will be calculated under the provisions of sec. 370(c).

\* Sec. 12. AS 39.35.420 is amended to read:

Sec. 39.35.420. NONOCCUPATIONAL DEATH BENEFITS. If the death of an employee occurs before his retirement, but after he has completed at least one year of credited service, and the employee's survivor is not entitled to a surviving spouse's pension under sec. 430 of this chapter, a lump sum death benefit shall be paid to the beneficiary of the employee. The amount of the lump sum death benefit shall be \$100 for each year of credited service. The lump sum death benefit is in addition to a refund of the balance of the employee contribution account of the deceased employee under sec. 210 of this chapter.

\* Sec. 13. AS 39.35.430 is amended to read:

Sec. 39.35.430. OCCUPATIONAL DEATH BENEFITS. (a) If (1) the death of an employee, other than a peace officer or a fireman, occurs before his retirement and before his normal retirement date, and (2) the proximate cause of death is a bodily injury sustained or a hazard undergone while in the performance and within the scope of the employee's duties, and (3) the injury or hazard is not the proximate result of the wilful negligence of the employee, the surviving spouse of the employee is eligible for a surviving spouse's pension until remarriage. The monthly amount of the surviving spouse's pension shall be equal to the amount the surviving spouse would have received if the employee had retired because of an occupational disability immediately before his death. If the surviving spouse remarries or if there is no surviving spouse, the survivor's benefit shall be paid in equal parts to the children of the employee, including those adopted, who are either under 18 years old or under 23 years old and registered at and attending on a full-time basis an accredited educational or a technical institution recognized by the Department of Education.

(b) If (1) the death of a peace officer or a fireman occurs before his retirement and before his normal retirement date, and (2) the proximate cause of death is a bodily injury sustained or a hazard undergone while in the performance and within the scope of his duties, and (3) the injury or hazard is not the proximate result of the wilful negligence of the employee, a monthly survivor's pension equal to his monthly compensation in the month in which he died shall be paid to his surviving spouse. If his surviving spouse remarries or if there is no surviving spouse, the monthly survivor's pension shall be paid in equal parts to the children of the employee, including those adopted, who are either under 18 years old or under 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education. On the date the normal retirement of the employee would have occurred if he had lived, monthly payments shall equal the monthly amount of the normal retirement benefit to which the employee, had he lived and continued his employment as a peace officer or a fireman until his normal retirement date, would have been entitled with an average monthly compensation as existed at his death and the credited service which he would have had.

(c) The first payment of the surviving spouse's pension or of the survivor's pension shall be made on the first day of the month following the month in which the employee dies and the payment shall cease to be made as of the first day of the month in which there is no eligible beneficiary.

(d) A determination of whether the proximate cause of death was a bodily injury sustained, or a hazard undergone, while in the performance and within the scope of the employee's duties and whether the injury or hazard was the proximate result of the wilful negligence of the employee shall be made by the board, based upon evidence satisfactory to the board. Payment of the surviving spouse's pension shall begin on the first day of the month after the employee's death, and the last payment shall be made as of the first day of the month in which the death or remarriage of the surviving spouse occurs.

(e) Payment of benefits under this section shall be reduced by any workmen's compensation or wage continuation payments which are available to the survivors and which are attributable to the employers.

\* Sec. 14. AS 39.35.440 is amended to read:

Sec. 39.35.440. DEATH AFTER OCCUPATIONAL DISABILITY.

(a) Upon the death of a retired employee, other than a peace officer or a fireman, who is receiving or is entitled to receive an occupational disability pension, a surviving spouse's pension shall be paid to his surviving spouse. The monthly amount of the pension shall be equal to 75 per cent of the monthly amount of the occupational disability pension which the retired employee was receiving or would have been entitled to receive if he had not been entitled to workmen's compensation and wage continuation payments. If the surviving spouse remarries or if there is no surviving spouse, the survivor's benefit shall be paid in equal parts to the children of the employee, including those adopted, who are either under 18 years old or under 23 years old and registered at and attending on a full-time basis an accredited educational or a technical institution recognized by the Department of Education.

\* Sec. 15. AS 39.35.440 is amended by adding new subsections to read:

(b) Upon the death of a retired employee who was a peace officer or a fireman on the date of his retirement and who is receiving or is entitled to receive an occupational disability pension, a surviving spouse's pension equal to two-thirds of his average monthly compensation shall be paid to his surviving spouse. If his surviving spouse remarries or if there is no surviving spouse, the survivor's pension shall be paid in equal parts to the children of the employee, including those adopted, who are either under 18 years old or under 23 years old and registered at and attending on a full-time basis an accredited educational or a technical institution recognized by the Department of Education.

(c) The first payment of the surviving spouse's pension or of the survivor's pension shall be made on the

first day of the month following the month in which the employee dies and the payments shall cease to be made as of the first day of the month in which there is no eligible beneficiary.

(d) Payment of benefits under this section shall be reduced by any workmen's compensation or wage continuation payments which are available to the survivors and which are attributable to the employers.

\* Sec. 16. AS 39.35 is amended by adding a new section to read:

Sec. 39.35.525. LIMITATION ON USE OF CREDITED SERVICE AS PEACE OFFICER OR FIREMAN. For the purpose of computing benefits for an employee enrolled as a peace officer or fireman, no more than 30 years of credited service may be considered, except for the purpose of computing average monthly compensation and then the three consecutive years during the entire period of credited service which produced the highest total compensation shall be used.

\* Sec. 17. AS 39.35 is amended by adding a new section to read:

Sec. 39.35.546. TAX EXEMPTION. Benefits of this chapter are exempt from state and municipal income taxes.

\* Sec. 18. AS 39.35.680(2) is amended to read:

(2) "average monthly compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, for which compensation was received; the considered period consists of the three consecutive calendar years during the period of credited service which yields the highest average, or if the employee does not have three years of credited service, his period of credited service;

\* Sec. 19. AS 39.35.680(11) is repealed and re-enacted to read:

(11) "normal retirement date" for a peace officer or a fireman means the first day of the month following either his 55th birthday and eight years of credited service or his 20th year of credited service, whichever is earlier, and for any other employee it means the first day of the month following either his 60th birthday and eight years of credited service or his 30th year of credited service, whichever is earlier;

\* Sec. 20. AS 39.35.680(14) is repealed and re-enacted to read:

(14) "peace officer and fireman" means an employee who is employed full time in the state as a peace officer, chief of police, fireman or fire chief;

\* Sec. 21. AS 39.35.680 is amended by adding a new paragraph to read:

(19) "surviving spouse" means the spouse of an

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employee who has been married to the employee for at least one year and who, at the time of his death, was living with him or dependent upon him for support, or living apart for justifiable cause or by reason of desertion by the employee.

\* Sec. 22. This Act takes effect on July 1, 1970.