



LAWS OF ALASKA

1975

Source

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Chapter No.

205

AN ACT

Relating to the compensation and retirement of judicial officers, legislators, and public officers and employees; and legislative per diem; and providing for an effective date.

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

* Section 1. AS 22.05.140(a) is amended to read:

(a) The annual salary for the chief justice and each associate justice is 20 per cent above Step E, Range 28 of the salary schedule established in AS 39.27.010 for Anchorage, Alaska. The compensation is payable monthly in 12 equal installments. Compensation of the chief justice or of an associate justice shall not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

* Sec. 2. AS 22.10.190(a) is amended to read:

(a) The annual salary for each superior court judge is 10 per cent above Step E, Range 28 of the salary schedule established in AS 39.27.010 for Anchorage, Alaska, payable monthly in 12 equal installments. The compensation of a judge shall not be diminished during his term of office; unless by general law applying to all salaried officers of the state.

* Sec. 3. AS 22.15.220(a) is amended to read:

(a) The annual salary for each district judge is 93 per cent of Step E, Range 28 of the salary schedule established in AS 39.27.010 for Anchorage, Alaska, payable monthly in 12 equal installments.

* Sec. 4. AS 24.15.020 is amended to read:

Sec. 24.15.020. ANNUAL LEGISLATIVE SALARIES. The annual salary for each member of the legislature is

33-1/3 per cent of Step E, Range 28 of the salary schedule established in AS 39.27.010 for Anchorage, Alaska, to be paid in approximately equal monthly payments. The president of the senate and speaker of the house of representatives are each entitled to an additional \$500 a year during tenure of office.

* Sec. 5. AS 39.20.080(a) is amended to read:

(a) The annual salary of the head of each principal executive department of the state upon appointment and confirmation is 10 per cent above Step E, Range 28 of the salary schedule established in AS 39.27.010 for Anchorage, Alaska. This salary shall be paid in equal monthly installments.

* Sec. 6. AS 24.15.010 is repealed and re-enacted to read:

Sec. 24.15.010. LEGISLATIVE PER DIEM. (a) For each day of the legislative session and for each day on official legislative business between sessions, legislators (1) on travel status and away from home overnight shall be allowed, instead of their actual expenses for subsistence a per diem allowance of \$48 for each day; (2) not away from home overnight shall receive an allowance of \$35 for each day. The per diem allowance is also payable for each day of necessary travel.

* Sec. 7. AS 22 is amended by adding a new chapter to read:

CHAPTER 28. CONTRIBUTORY JUDICIAL RETIREMENT SYSTEM.

Sec. 22.28.010. APPLICATION. Each justice or judge appointed before January 1, 1976 shall accrue benefits under the provisions of ch. 25 of this title. Each justice or judge appointed after that date and who has not accrued benefits under ch. 25 of this title shall accrue benefits under the system provided in this chapter.

Sec. 22.28.020. ADMINISTRATION. The commissioner of administration is responsible for the administration of the system.

Sec. 22.28.030. REGULATIONS. The commissioner may promulgate regulations to implement the provisions of this chapter. Regulations adopted by the commissioner under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62).

Sec. 22.28.040. CONTRIBUTIONS. While participating in the system each justice and judge shall contribute seven per cent of his compensation to the retirement system.

Sec. 22.28.050. RETIREMENT OF JUSTICES AND JUDGES.
(a) A justice or judge shall be retired on the date that he reaches the age of 70. He is eligible for retirement pay if he has had five or more years of service at the time of retirement as a justice or judge.

(b) A justice or judge may be retired for incapacity as provided by law. He is eligible for retirement pay if

he has had two or more years of service at the time of retirement for incapacity. The effective date of retirement under this subsection is the first day of the month coinciding with or after the date upon which the governor with respect to a justice, or the supreme court with respect to a judge files with the commissioner of administration a written declaration to the effect that a designated justice or judge was retired for incapacity. A duplicate copy of the declaration shall be filed with the judicial council.

(c) A justice or judge who served for a period of five years, and who believes that he has become so incapacitated as to prevent him from efficiently performing his judicial duties may file with the governor a written application for retirement which contains a sworn statement of his service and of his incapacity. When an application is filed, the governor shall appoint a board of three persons to inquire into the circumstances, and may, upon the board's recommendation, retire the justice or judge. The effective date of the retirement shall be as provided in (b) of this section.

(d) A justice or judge may voluntarily retire at any time and shall have a vested right to his accrued retirement pay if he has served five or more years. Retirement pay shall not commence until he has reached age 60, except that an actuarially equivalent retirement pay may be commenced after he has reached age 55 or upon his serving 20 years as a justice or judge. The provisions of (b) of this section are an exception to this rule. A justice or judge desiring to retire under this subsection shall file with the commissioner of administration a notice of his desire. If a justice or judge is eligible to receive retirement pay at the time of his retirement, his retirement pay shall commence on the first day of the month coinciding with or after the date the notice is filed with the commissioner of administration. If a justice or judge is not eligible to receive retirement pay at the time of his retirement, his retirement pay shall commence on the first day of the month he reaches age 60 or the month he becomes eligible for an actuarial equivalent if he has applied for this option.

(e) In the computation of service for retirement under this chapter, the time served by a justice or judge of any court of the state is added to the time served by him, if any, on any other court of the state.

(f) The word "justice" means a supreme court justice, and the word "judge"; unless the context clearly indicates otherwise, means a superior court or district court judge.

Sec. 22.28.060. RETIREMENT PAY. A retired justice or judge eligible for retirement pay shall receive from the date of his eligibility until his death monthly compensation equal to five per cent per year of service, to a maximum of 75 per cent, of the monthly salary authorized for justices and judges, respectively, at the time each retirement payment is made.

Sec. 22.28.070. SURVIVORS' BENEFITS. (a) Upon the death of a justice or judge who has served for at least two years, the surviving spouse is entitled to receive monthly compensation equal to one-half of the monthly retirement pay

the justice or judge would thereafter have been entitled to receive if retired at the time of death. If at death the justice or judge was not yet entitled to retirement pay, or was or would have been entitled to less than 60 per cent of the monthly salary authorized for his office, the surviving spouse is entitled to monthly compensation equal to 30 per cent of the salary authorized for justices or judges, respectively, at the time each monthly payment is made.

(b) To be eligible for the survivors' benefits, the surviving spouse must have been married to the justice or judge for at least two years immediately preceding the death of the justice or judge. The benefits continue until the remarriage or death of the surviving spouse.

(c) If there is no surviving spouse, or if the surviving spouse does not meet the requirements of (b) of this section, or upon the remarriage or death of the surviving spouse, the surviving dependent child or children of the justice or judge are entitled to receive in equal shares 50 per cent of the amount of the survivors' benefits specified under (a) of this section.

(d) The surviving child or children are entitled to the survivors' benefits under (c) of this section during the period of their dependency. Dependency exists with respect to any child of a justice or judge who is either (1) a minor under the laws of Alaska, (2) under the age of 23 and is a student attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education, or (3) so mentally or physically incapacitated as to be unable to provide for self-care.

(e) If there are both an eligible surviving spouse and surviving dependent children, but who reside in separate households, the surviving spouse and dependent children will share equally in the benefits payable under (a) of this section.

Sec. 22.28.080. TAX EXEMPTION. Benefits paid under this chapter are exempt from state and municipal taxes.

Sec. 22.28.090. APPROPRIATIONS. An estimated amount sufficient to pay all benefits, including interest credited to individual accounts, anticipated to be paid under this chapter in each fiscal year shall be included in the annual appropriation to the Department of Administration. If the actual authorized benefits necessary to be paid in any fiscal year exceed the sum appropriated, the benefits due shall nevertheless be paid from general funds of the state not otherwise appropriated.

Sec. 22.28.100. ACCOUNTING. (a) The contributory judicial retirement account shall be established to which all appropriations under this chapter shall be credited.

(b) An individual account shall be maintained for each justice or judge to which the amount of his mandatory contributions collected under 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, 1976, 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.

(c) Upon commencement of retirement pay to a justice or judge, the balance in his individual account shall be transferred to the contributory judicial retirement account.

Sec. 22.28.110. REFUNDS. Upon termination of judicial service, application may be made for a refund of the balance in the individual's account. Upon withdrawal of the balance, all rights to benefits terminate.

Sec. 22.28.120. PRIOR SERVICE CREDIT. In the event a justice or judge who has withdrawn the balance of his individual account returns to permanent active service, he shall receive credit for his prior period or periods of service only if he repays within one year of the date of return all refunded contributions with interest at the prevailing prescribed rate.

* Sec. 8. AS 39 is amended by adding a new chapter to read:

CHAPTER 37. ELECTED PUBLIC OFFICERS RETIREMENT SYSTEM.

Sec. 39.37.010. APPLICATION. This chapter applies to persons who are elected public officers on the effective date of this chapter and to persons who become elected public officers after the effective date of the chapter.

Sec. 39.37.020. RETIREMENT OF ELECTED PUBLIC OFFICERS. An elected public officer is eligible for retirement pay if he has had five or more years of service at the time of retirement as an elected public officer.

Sec. 39.37.030. RETIREMENT FOR INCAPACITY. An elected public officer who has served for a period of five years, and who believes that he has become so incapacitated as to prevent him from efficiently performing his duties, may file a written application for retirement which contains a sworn statement of his service and of his incapacity. When an application is filed, a board of three persons to inquire into the circumstances shall be appointed by the chief justice of the state supreme court, and the commissioner of administration upon the board's recommendation shall retire the elected public officer. The effective date of the retirement shall be the first day of the month following the recommendation of the board.

Sec. 39.37.040. VOLUNTARY RETIREMENT. (a) An elected public officer may voluntarily retire at any time and shall have a vested right to his accrued retirement pay if he has served five years or more. Retirement pay shall not begin until he has reached age 60, except that an actuarially equivalent retirement pay may be begun after he has reached age 55 or upon attaining 20 years of creditable service. The provisions of sec. 30 of this chapter are an exception to this rule.

(b) An elected public officer desiring to retire under this section shall file with the commissioner of administration an application for retirement.

(c) If an elected public officer is eligible to receive retirement pay at the time of his retirement, his retirement pay shall begin on the first day of the month following termination of office. If an elected public officer is not eligible to receive retirement pay at the time of his retirement, his retirement pay shall begin on the first day of the month he reaches age 60 or at age 55 with an actuarially reduced benefit.

Sec. 39.37.050. BENEFIT FORMULA. (a) A person retired under the provisions of this chapter shall receive from the effective date of his retirement until his death monthly compensation equal to a per cent of either (1) the monthly salary and additional allowances established under AS 24.15.030 authorized for the office from which he retired at the time each retirement payment is made; or (2) his average monthly compensation as defined in AS 39.35.680. At the time the official applies for retirement, he shall elect to have his benefits computed under either (1) or (2) of this subsection. The election is irrevocable.

(b) The per cent shall be five per cent per year of membership service and the per cent per year of other creditable service equal to the benefit formula used for years of creditable service under ch. 35 of this title prevailing at the time of retirement.

(c) The total percentage under (b) of this section shall not exceed 75 per cent.

Sec. 39.37.060. SURVIVORS' BENEFITS. (a) Upon the death of an elected public officer who has served at least two years, the surviving spouse is entitled to receive monthly compensation equal to one-half of the monthly retirement pay the elected public officer would thereafter have been entitled to receive if retired at the time of death. If at death the elected public officer was not yet entitled to retirement pay, or was or would have been entitled to less than 60 per cent of the monthly salary authorized for his office, the surviving spouse is entitled to monthly compensation equal to 30 per cent of the monthly salary authorized for the office at the time each retirement payment is made or 30 per cent of his average monthly compensation as defined in AS 39.35.680.

(b) To be eligible for the survivors' benefits, the surviving spouse must have been married to the elected public officer for at least two years immediately preceding the death of the elected public officer. The benefits continue until the remarriage or death of the surviving spouse.

(c) If there is no surviving spouse, or if the surviving spouse does not meet the requirements of (b) of this section, or upon the remarriage or death of the surviving spouse, the surviving dependent child or children of the elected public officer are entitled to receive in equal shares 50 per cent of the amount of the survivors' benefits specified under (a) of this section.

(d) The surviving child or children are entitled to the survivors' benefits under (c) of this section during

the period of their dependency. Dependency exists with respect to any child of an elected public officer who is either (1) a minor under the laws of Alaska; (2) under the age of 23 and is a student attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education; or (3) so mentally or physically incapacitated as to be unable to provide for self-care.

(e) If there are both an eligible surviving spouse and surviving dependent children, but who reside in separate households, the surviving spouse will receive one-half of the benefits payable under (a) of this section and the dependent children will share equally in the remainder of the benefits.

Sec. 39.37.070. CONTRIBUTIONS. (a) Each elected public officer shall contribute seven per cent of his compensation to the retirement system.

(b) An elected public officer participating in the retirement system established under this chapter is entitled to service credit for creditable service to the state, territory, or political subdivision before the effective date of this chapter for each year of such service for which he has accrued service credit under ch. 35 of this title.

(c) An elected public officer participating in the retirement system established under this chapter may become entitled to service credit for creditable service to the state, territory or political subdivision before the effective date of this chapter for which he has not accrued service credit under ch. 35 of this title by complying with the following:

(1) if the prior creditable service was covered under ch. 35 of this title at the time it was rendered, he shall pay contributions for each year of seven per cent of the compensation received at the time service was rendered; or

(2) if the prior creditable service was not covered under ch. 35 of this title at the time service was rendered, he shall pay contributions of seven per cent of his compensation at the time he makes application under (d) of this section; or

(3) if the service was as an elected public officer, he shall pay contributions at the rate of seven per cent of the amount of salary actually paid during the period.

(d) To receive service credit under (c) of this section, an elected public officer must make application within 60 days of becoming a participant in the retirement system established under this chapter.

(e) Each public officer who has accrued five years or more of membership service shall contribute to this retirement system seven per cent of compensation received thereafter for all creditable service and is entitled to benefits as provided in this chapter.

(f) The compensation applicable to a member of the legislature making a contribution under (a) of this section is the sum of the legislative salary and additional allowances established under AS 24.15.020 and 24.15.030.

(g) The contribution is made in the form of a payroll deduction and is made notwithstanding that the compensation paid in cash to the elected public officer is reduced below the minimum prescribed by law. Each elected public officer is considered to consent to the deduction made from his compensation. Payment of compensation less the deduction prescribed in (a) of this section and other payroll deductions constitutes a full and complete discharge and satisfaction of all claims and demands for the services rendered by him during the period covered by the payment, except as to the benefits provided for under this chapter.

Sec. 39.37.080. ADMINISTRATION. The commissioner of administration is responsible for the administration of the system.

Sec. 39.37.090. REGULATIONS. The commissioner may promulgate regulations to implement the provisions of this chapter. Regulations adopted by the commissioner under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62).

Sec. 39.37.100. TAX EXEMPTION. Benefits paid under this chapter are exempt from state and municipal taxes.

Sec. 39.37.110. APPROPRIATIONS. An estimated amount sufficient to pay all benefits, including interest credited to individual accounts, anticipated to be paid under this chapter in each fiscal year shall be included in the annual appropriation to the Department of Administration. If the actual authorized benefits necessary to be paid in any fiscal year exceed the sum appropriated, the benefits due shall nevertheless be paid from general funds of the state not otherwise appropriated.

Sec. 39.37.120. ACCOUNTING. (a) The elected public officers retirement account shall be established to which all appropriations under this chapter shall be credited.

(b) An individual account shall be maintained for each elected public officer to which the amount of his mandatory contributions collected under 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, 1976, 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.

(c) Upon commencement of retirement pay to an elected public officer, the balance in his individual account shall be transferred to the elected public officers retirement account.

(d) Upon commencement of participation in this retirement system, any balance in an elected public officer's

individual account under ch. 35 of this title is transferred to his individual account under this section.

Sec. 39.37.130. REFUNDS. Upon termination of creditable service, application may be made for a refund of the balance in the individual's account. Upon withdrawal of the balance, all rights to benefits terminate.

Sec. 39.37.140. PRIOR SERVICE CREDIT. In the event an elected public officer who has withdrawn the balance of his individual account returns to elected public office, he shall receive credit for his prior period or periods of service only if he repays within one year of the date of return all refunded contributions with interest at the prevailing prescribed rate.

Sec. 39.37.150. DEFINITIONS. In this chapter

(1) "elected public officer" means the governor, lieutenant governor, or a member of the legislature;

(2) "creditable service" means service as an elected public officer and other service to the state, territory, or political subdivision under which benefits presently accrue under ch. 35 of this title;

(3) "membership service" means service as an elected public officer.

* Sec. 9. AS 39.35.680(5)(B) is amended to read:

(B) means an elected official of a political subdivision currently serving who elects to pay contributions required of an employee and to be included in the system under sec. 125 of this chapter;

* Sec. 10. AS 39.35.680(5)(C)(v) is amended to read:

(v) justices and judges of the supreme, superior and district courts of Alaska; or the governor and lieutenant overnor of Alaska; or the members of the Alaska State Legislature;

* Sec. 11. AS 39.35.380(a) is amended to read:

(a) An employee is eligible for an early retirement pension on or after his 50th birthday and after he completes five or more years of credited service.

* Sec. 12. AS 39.35.380 is amended by adding a new subsection to read:

(d) An employee who previously retired under (a) of this section shall be paid benefits computed under sec. 370(c) of this chapter from the effective date of this Act.

* Sec. 13. AS 39.35.410(d) is amended to read:

(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

Chapter 205

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 55th birthday after his disability or his actual credited service before his disability, 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 not be reduced.

- * Sec. 14. AS 39.35.485 is amended to read:

Sec. 39.35.485. MINIMUM BENEFIT. (a) An employee whose termination occurred before July 1, 1975 and who is eligible for a benefit calculated in accordance with sec. 370(c) of this chapter is entitled to a benefit of at least \$13.25 a month for each year of credited service, not including adjustments made under secs. 380, 410, 450, 475 and 480 of this chapter.

(b) An employee who retired under this section before July 1, 1975 shall be paid a benefit amount computed under sec. 370(c) of this chapter or under this section, whichever is greater.

- * Sec. 15. AS 39.35.680(11) is amended 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 five years of credited service or his 20th year of credited service, whichever is earlier. For any other employee it means the first day of the month following either his 55th birthday and five years of credited service or his 30th year of credited service, whichever is earlier;

- * Sec. 16. Sections 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14 and 15 of this Act take effect July 1, 1975.

- * Sec. 17. Sections 7 and 8 of this Act take effect January 1, 1976.