



LAWS OF ALASKA

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Source
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Chapter No.

AN ACT

Relating to the Teachers' Retirement System, the Judicial Retirement System, and the Public Employees' Retirement System for qualified military service; relating to the definition of "veteran" for purposes of housing, eligibility for veterans' loans, and preferences in state employment hiring; providing for home and community-based waiver services under Medicaid for children of military service members; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the Teachers' Retirement System, the Judicial Retirement System, and the Public
2 Employees' Retirement System for qualified military service; relating to the definition of
3 "veteran" for purposes of housing, eligibility for veterans' loans, and preferences in state
4 employment hiring; providing for home and community-based waiver services under
5 Medicaid for children of military service members; and providing for an effective date.

6



7 * **Section 1.** AS 14.25.195 is amended by adding new subsections to read:

8 (b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while
9 performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the
10 member are entitled to any additional benefits that would have been provided to the
11 survivors under the plan had the member resumed employment and then terminated
12 employment on account of death. For purposes of this subsection, periods of qualified

1 military service are not included in calculations of credited service.

2 (c) Consistent with and to the extent required by 26 U.S.C. 414(u)(12), a
3 member receiving differential wage payments from an employer shall be treated as
4 employed by that employer, and the differential wage payment shall be treated as
5 compensation for purposes of applying the limits on annual additions under 26 U.S.C.
6 415(b). For purposes of this subsection, "differential wage payment" means any
7 payment that

8 (1) is made by an employer to an individual with respect to any period
9 during which the individual is performing service in the uniformed services, as defined
10 in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

11 (2) represents all or a portion of the wages the individual would have
12 received from the employer if the individual were performing service for the
13 employer.

14 * **Sec. 2.** AS 14.25.582 is amended by adding new subsections to read:

15 (b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while
16 performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the
17 member are entitled to any additional benefits that would have been provided to the
18 survivors under the plan had the member resumed employment and then terminated
19 employment on account of death. For purposes of this section, periods of qualified
20 military service are not included in calculations of credited service.

21 (c) Consistent with and to the extent required by 26 U.S.C. 414(u)(12), a
22 member receiving differential wage payments from an employer shall be treated as
23 employed by that employer, and the differential wage payment shall be treated as
24 compensation for purposes of applying the limits on annual additions under 26 U.S.C.
25 415(c). For purposes of this subsection, "differential wage payment" means any
26 payment that

27 (1) is made by an employer to an individual with respect to any period
28 during which the individual is performing service in the uniformed services, as defined
29 in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

30 (2) represents all or a portion of the wages the individual would have
31 received from the employer if the individual were performing service for the

1 employer.

2 * **Sec. 3.** AS 18.55.470(4) is amended to read:

3 (4) "veteran" means a person

4 (A) honorably separated from the military service of the United
5 States who has at any time resided continuously for at least **one** [A] year in the
6 state and who served in the armed forces of the United States for at least 90
7 days or whose service was for less than 90 days because of injury or disability
8 incurred in the line of duty, [BETWEEN]

9 (i) **between** September 16, 1940, and July 25, 1947;

10 (ii) **between** June 25, 1950, and January 31, 1955; [OR]

11 (iii) **between** August 4, 1964, and November 7, 1975;

12 **(iv) between August 2, 1990, and January 2, 1992;**

13 **(v) beginning September 11, 2001, and ending on the**
14 **day prescribed by Presidential proclamation or by law as the last**
15 **date of Operation Iraqi Freedom; or**

16 **(vi) during any of the time periods listed in 5 U.S.C.**
17 **2108(1);**

18 (B) who served in the Alaska Territorial Guard for at least 90
19 days or whose service was for less than 90 days because of injury or disability
20 incurred in the line of duty, and who has at any time resided continuously for
21 at least **one** [A] year in the state;

22 (C) who is the spouse or widow or widower of a person
23 described under (A) or (B) of this paragraph.

24 * **Sec. 4.** AS 22.25.110 is amended by adding new subsections to read:

25 (b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while
26 performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the
27 member are entitled to any additional benefits that would have been provided to the
28 survivors under the plan had the member resumed employment and then terminated
29 employment on account of death. For purposes of this subsection, periods of qualified
30 military service are not included in calculations of credited service.

31 (c) Consistent with and to the extent required by 26 U.S.C. 414(u)(12), a

1 member receiving differential wage payments from an employer shall be treated as
2 employed by that employer, and the differential wage payment shall be treated as
3 compensation for purposes of applying the limits on annual additions under 26 U.S.C.
4 415(b). For purposes of this subsection, "differential wage payment" means any
5 payment that

6 (1) is made by an employer to an individual with respect to any period
7 during which the individual is performing service in the uniformed services, as defined
8 in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

9 (2) represents all or a portion of the wages the individual would have
10 received from the employer if the individual were performing service for the
11 employer.

12 * **Sec. 5.** AS 26.15.130(a) is amended to read:

13 (a) Qualifications for loans under this chapter are **as follows**:

14 (1) persons who served in the armed forces of the United States for 90
15 days or more, or whose service was for less than 90 days because of injury or
16 disability incurred in the line of duty, between April 6, 1917, and November 11, 1918,
17 **between** [AND BEGINNING] September 16, 1940, **and** [TO] November 7, 1975,
18 **between August 2, 1990, and January 2, 1992, or beginning September 11, 2001,**
19 **and ending on the day prescribed by Presidential proclamation or by law as the**
20 **last date of Operation Iraqi Freedom,** or **who served** in a combat zone during any
21 period of armed conflict, **or during any time period listed in 5 U.S.C. 2108(1),** who
22 were separated from the armed forces with a discharge other than dishonorable, and

23 (A) who, at the time of induction into the service, were
24 residents of the territory or state, who had been residents for not less than one
25 year immediately before their induction, and who returned to the territory or
26 state after discharge as residents with the intention of remaining in the territory
27 or state; or

28 (B) who, not being bona fide residents of the territory or state
29 before their entry into the service, have been residents of the territory or state
30 for one or more years;

31 (2) persons who were dependent on a member of the armed forces or a

1 veteran of World War II at the time of the member's or veteran's death, if

2 (A) the member or veteran was a resident of the territory or
3 state for one year before induction into the service; and

4 (B) the member or veteran served in the armed forces for at
5 least 90 days between September 16, 1940, and July 25, 1947, but benefits for
6 loans do not accrue to dependents of an enlistee or re-enlistee for time served
7 after November 1, 1945, regardless of whether the enlistment or reenlistment
8 was before or after November 1, 1945; and

9 (C) the member or veteran died before the official date of the
10 termination of that war; and

11 (D) the member's or veteran's discharge was not dishonorable;

12 (3) persons who have served in the Alaska Army National Guard or the
13 Alaska Air National Guard or the Alaska Naval Militia for not less than six years and
14 who have not received a discharge other than honorable.

15 * **Sec. 6.** AS 26.15.160 is amended to read:

16 **Sec. 26.15.160. Extension of chapter to members of the Alaska Territorial**
17 **Guard and to veterans of the armed forces of the United States [KOREA AND**
18 **VIETNAM].** The provisions of this chapter, except those provisions relating to the
19 payment of bonuses, are extended to persons who served in the Alaska Territorial
20 Guard **and to veterans of the armed forces of the United States**, who served other
21 than dishonorably on active duty between June 25, 1950, and January 31, 1955, [WHO
22 SERVED OTHER THAN DISHONORABLY ON ACTIVE DUTY] between
23 August 4, 1964, and November 7, 1975, **between August 2, 1990, and January 2,**
24 **1992, beginning September 11, 2001, and ending on the day prescribed by**
25 **Presidential proclamation or by law as the last date of Operation Iraqi Freedom,**
26 **or during any time period listed in 5 U.S.C. 2108(1)** and to dependents of those
27 persons, subject to the following provisions and eligibility qualifications:

28 (1) persons are eligible

29 (A) who served in the Alaska Territorial Guard, who were
30 discharged other than dishonorably from the armed forces of the United States,
31 or who are released to a reserve component; and

1 (B) who, at the time of entry into the service, were bona fide
2 residents of the territory or State of Alaska and had been residents of the
3 territory or state for not less than one year before their entry into the service;
4 and who have returned to the territory or state within a reasonable length of
5 time after the end of their service in the Alaska Territorial Guard or their
6 discharge or separation as residents with the intention of remaining in the
7 territory or state; or who, not being bona fide residents of the territory before
8 their entry into the service, have lived in the territory or state for at least five
9 years following their release from active military service; and

10 (C) who served in the armed forces of the United States for 90
11 days or more, or whose service was for a lesser period because of injury or
12 disability incurred in line of duty, between June 25, 1950, and January 31,
13 1955, [OR WHO SERVED IN THE ARMED FORCES OF THE UNITED
14 STATES FOR 90 DAYS OR MORE OR WHOSE SERVICE WAS FOR A
15 LESSER PERIOD BECAUSE OF INJURY OR DISABILITY INCURRED IN
16 LINE OF DUTY,] between August 4, 1964, and July 1, 1977, **between**
17 **August 2, 1990, and January 2, 1992, beginning September 11, 2001, and**
18 **ending on the day prescribed by Presidential proclamation or by law as**
19 **the last date of Operation Iraqi Freedom, or during any time period listed**
20 **in 5 U.S.C. 2108(1)**, or who served in the Alaska Territorial Guard for 90 days
21 or more or whose service in the Alaska Territorial Guard was for a lesser
22 period because of injury or disability incurred in the line of duty;

23 (2) persons are eligible who were dependent upon a member of the
24 Alaska Territorial Guard or armed forces or upon a veteran, including persons who
25 served in the Alaska Territorial Guard, eligible for the benefits of this chapter at the
26 time of the member's or veteran's death if the member or veteran was a resident of the
27 territory for one year before entry into service [AND DIED BEFORE NOVEMBER 5,
28 1975]; dependents must be unmarried and the deceased veteran or member of the
29 armed forces must have been their chief means of support and they must be either a
30 widow, widower, minor child, or a mother, father, sister, or brother incapable of self-
31 support; dependents must be residents of the state at the time of application and shall

1 intend to remain residents in the state permanently; the rights of minor children under
2 this chapter may be exercised only if they have no surviving parent and have an
3 appointed guardian who may apply on their behalf for the benefits of this chapter for
4 their care, support, or education;

5 (3) a person who is eligible for veteran's benefits under the laws of any
6 other state or territory is not eligible for the benefits of this section unless the person
7 has lived in the state or territory for at least five years following the end of the person's
8 service in the Alaska Territorial Guard or release from active military service; a World
9 War II veteran who received a bonus under former AS 26.15.120 and former
10 AS 26.15.150 need not repay the bonus in order to qualify under the loan provisions of
11 this section;

12 (4) for persons otherwise eligible for the benefits under this section,
13 who did not return to the state or territory **not later than** [WITHIN] one year after the
14 end of the persons' service in the Alaska Territorial Guard or separation from the
15 service unless prevented from doing so for medical, educational, or other valid
16 purposes approved by the Department of Commerce, Community, and Economic
17 Development **not later than** [WITHIN] one year after the end of the persons' service
18 in the Alaska Territorial Guard or separation from the service, an additional
19 requirement of four years' residence in the state or territory before their entry into the
20 service is imposed to entitle them to the benefit provisions of this section.

21 * **Sec. 7.** AS 39.25.159(f)(5) is amended to read:

22 (5) "veteran" means a person

23 (A) with 181 days or more active service in the armed forces of
24 the United States who has been honorably discharged after having served
25 during any period

26 (i) between April 6, 1917, and December 1, 1919,
27 between September 16, 1940, and December 31, 1947, [OR] between
28 June 27, 1950, and October 14, 1976, **between August 2, 1990, and**
29 **January 2, 1992, beginning September 11, 2001, and ending on the**
30 **day prescribed by Presidential proclamation or by law as the last**
31 **date of Operation Iraqi Freedom, or during any time period listed**

1 in 5 U.S.C. 2108(1); or

2 (ii) in which the person was awarded a campaign badge,
3 expedition medal, the Purple Heart, or an award or decoration for
4 heroism or gallantry in action;

5 (B) who served 181 days or more in the Alaska Territorial
6 Guard.

7 * **Sec. 8.** AS 39.35.677 is amended by adding new subsections to read:

8 (b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while
9 performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the
10 member are entitled to any additional benefits that would have been provided to the
11 survivors under the plan had the member resumed employment and then terminated
12 employment on account of death. For purposes of this subsection, periods of qualified
13 military service are not included in calculations of credited service.

14 (c) Consistent with and to the extent required by 26 U.S.C. 414(u)(12), a
15 member receiving differential wage payments from an employer shall be treated as
16 employed by that employer, and the differential wage payment shall be treated as
17 compensation for purposes of applying the limits on annual additions under 26 U.S.C.
18 415(b). For purposes of this subsection, "differential wage payment" means any
19 payment that

20 (1) is made by an employer to an individual with respect to any period
21 during which the individual is performing service in the uniformed services, as defined
22 in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

23 (2) represents all or a portion of the wages the individual would have
24 received from the employer if the individual were performing service for the
25 employer.

26 * **Sec. 9.** AS 39.35.972 is amended by adding new subsections to read:

27 (b) To the extent required by 26 U.S.C. 401(a)(37), if a member dies while
28 performing qualified military service, as defined in 38 U.S.C. 43, the survivors of the
29 member are entitled to any additional benefits that would have been provided to the
30 survivors under the plan had the member resumed employment and then terminated
31 employment on account of death. For purposes of this subsection, periods of qualified

1 military service are not included in calculations of credited service.

2 (c) Consistent with and to the extent required by 26 U.S.C. 414(u)(12), a
3 member receiving differential wage payments from an employer shall be treated as
4 employed by that employer, and the differential wage payment shall be treated as
5 compensation for purposes of applying the limits on annual additions under 26 U.S.C.
6 415(c). For purposes of this subsection, "differential wage payment" means any
7 payment that

8 (1) is made by an employer to an individual with respect to any period
9 during which the individual is performing service in the uniformed services, as defined
10 in 38 U.S.C. 43, while on active duty for a period of more than 30 days; and

11 (2) represents all or a portion of the wages the individual would have
12 received from the employer if the individual were performing service for the
13 employer.

14 * **Sec. 10.** AS 47.07.045 is amended by adding new subsections to read:

15 (c) If a child who is financially dependent on a military service member is
16 eligible for home and community-based services while physically present in the state,
17 the department shall provide for home and community-based services when the child
18 returns to the state as though the child had remained in the state if the military service
19 member provides proof acceptable to the department that

20 (1) the member has maintained residency in the state for the period of
21 eligibility; proof under this paragraph must include official military personnel records;

22 (2) the member and the dependent child are physically present in the
23 state and intend to reside permanently in the state while receiving the home and
24 community-based services;

25 (3) the member returned to the state within 18 months after separating
26 from military service; and

27 (4) the member's dependent child is not eligible for coverage of home
28 and community-based services under another health insurance plan.

29 (d) In (c) of this section, "military" means the armed forces of the United
30 States, the United States Coast Guard, or the Alaska National Guard.

31 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 RETROACTIVITY. (a) AS 14.25.195(b), added by sec. 1 of this Act,
3 AS 14.25.582(b), added by sec. 2 of this Act, AS 22.25.110(b), added by sec. 4 of this Act,
4 AS 39.35.677(b), added by sec. 8 of this Act, and AS 39.35.972(b), added by sec. 9 of this
5 Act, are retroactive to January 1, 2007.

6 (b) AS 14.25.195(c), added by sec. 1 of this Act, AS 14.25.582(c), added by sec. 2 of
7 this Act, AS 22.25.110(c), added by sec. 4 of this Act, AS 39.35.677(c), added by sec. 8 of
8 this Act, and AS 39.35.972(c), added by sec. 9 of this Act, are retroactive to January 1, 2009.

9 * **Sec. 12.** This Act takes effect immediately under AS 01.10.070(c).