

SENATE BILL NO. 102

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATORS KAWASAKI, Gray-Jackson, Begich

Introduced: 4/3/19

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to retirement incentives for members of the defined benefit retirement**
2 **plan of the teachers' retirement system and the defined benefit retirement plan of the**
3 **Public Employees' Retirement System of Alaska; and providing for an effective date."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 PURPOSE AND INTENT. The State of Alaska and many local governments and
8 school districts are facing the need to restructure their operations and workforces to reduce
9 expenditures and balance budgets. Retirement incentives are management tools that have been
10 used extensively by the private sector, the federal government, and other state and local
11 governments across the country. The purpose of this Act is to make those management tools
12 temporarily available to the state and to municipalities and school districts in the state. This
13 Act will enable those entities to reduce operating costs by allowing certain positions to
14 become vacant and then eliminating those positions or leaving them vacant. The legislature

1 intends that employers that adopt retirement incentive programs under this Act adopt an
2 accompanying policy that prohibits hiring of new employees.

3 * **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to
4 read:

5 RETIREMENT INCENTIVE PROGRAM. (a) An employer, including a state agency,
6 a political subdivision of the state, a public organization, and the University of Alaska, may
7 elect to adopt a retirement incentive program under this Act. The employer may limit
8 applicability of the program to employees

9 (1) in specific budget or administrative components designated by the
10 employer;

11 (2) in specific job classifications designated by the employer;

12 (3) in specific geographic locations identified by the employer; or

13 (4) based on any combination of factors under (1) - (3) of this subsection.

14 (b) Only the administrator may approve or deny an employee's application to
15 participate in a retirement incentive program adopted by an employer under (a) of this section.

16 (c) An employer that elects to adopt a retirement incentive program under (a) of this
17 section shall propose the adopted program to the administrator for approval. The administrator
18 shall approve the program if the program meets the requirements of this section and, if the
19 employer is a state agency, sec. 9(a) of this Act. A program proposed under this section must
20 include

21 (1) job classification designations and specific budget and administrative
22 components related to those job classification designations, that are wholly or partially made
23 up of employees who may be eligible to participate in the program;

24 (2) a reimbursement agreement that requires

25 (A) the employer, for each employee who participates in the program,
26 to reimburse the defined benefit retirement plan in the appropriate retirement system,
27 within three years after the end of the fiscal year in which the employee is appointed
28 to retirement, in an amount equal to the actuarial equivalent of the difference between
29 the benefits the participant receives after the addition of the credit under (i) of this
30 section and the benefits the participant would have received without the credit, less the
31 amount the participant has paid on the indebtedness determined under (g) or (h) of this

1 section; and

2 (B) the employer's obligation to contribute under this section be given
3 priority over other financial obligations of the employer to the maximum extent
4 permitted by law.

5 (d) An employer that elects, under (a) of this section, to adopt a retirement incentive
6 program may request that the administrator establish one or more periods during which one or
7 more employees of the employer who are eligible under (e) of this section may apply to
8 participate in the program. A period established by the administrator under this subsection
9 may not begin earlier than 30 days after the date it is established or end later than June 30,
10 2022, and must be not less than 30 days and not more than 60 days in duration.

11 (e) The administrator may not allow an employee to participate in a retirement
12 incentive program adopted under this Act unless the employee is eligible under the program
13 for appointment to retirement not later than the earlier of

14 (1) the first day of the sixth month that follows the last day of the application
15 period established by the administrator under (d) of this section; or

16 (2) a date set under the retirement incentive program as the date employees are
17 required to be eligible for appointment to retirement.

18 (f) An employee is eligible to participate in a retirement incentive program under this
19 Act only if

20 (1) the employee is a vested member of a defined benefit retirement plan in
21 the public employees' retirement system or the teachers' retirement system;

22 (2) the employee has credit for service under AS 14.25.110 or AS 39.35.370
23 that occurred before July 1, 2006;

24 (3) the employee is at least 50 years of age, and, before application of credit
25 described in (i) of this section, has

26 (A) at least 17 years of credited service as a peace officer or firefighter,
27 as those terms are defined in AS 39.35.680; or

28 (B) at least 20 years of credited service as an employee other than an
29 employee described in (A) of this paragraph;

30 (4) the employee will be qualified to retire under AS 14.25.110 or
31 AS 39.35.370 after receipt of the credit described in (i) of this section;

1 (5) if the employer is a state agency, the employee satisfies the additional
2 requirements under sec. 3 of this Act; and

3 (6) the savings to the employer in personal services costs for the employee's
4 position will exceed the costs to the employer for that position within three years after the
5 employee is appointed to retirement.

6 (g) A member of the defined benefit retirement plan in the teachers' retirement system
7 who participates in an approved retirement incentive program under this Act is indebted to the
8 defined benefit retirement plan for an amount calculated under this subsection. The
9 indebtedness is 25.95 percent of the member's actual compensation for the school year in
10 which the member terminates employment, or the calculated school year compensation for a
11 member who works less than the entire school year, plus an appropriate share of the
12 administrative costs of the program. The member may apply annual or personal leave to the
13 indebtedness before appointment to retirement. If the indebtedness is outstanding
14 indebtedness at the time the member is appointed to retirement under the retirement incentive
15 program, the pension benefits payable to the member shall be reduced by an actuarial
16 adjustment that eliminates the indebtedness.

17 (h) A member of the defined benefit retirement plan in the public employees'
18 retirement system who participates in an approved retirement incentive program under this
19 Act is indebted to the defined benefit retirement plan for an amount calculated under this
20 subsection. The indebtedness is 22 1/2 percent for a peace officer or firefighter, and 20 1/4
21 percent for other members, of the member's actual annual compensation for the year in which
22 the member terminates employment, or the calculated annual compensation for a member
23 who works fewer than 12 months, plus an appropriate share of the administrative costs of the
24 program. The member may apply annual or personal leave to the indebtedness before
25 appointment to retirement. If the indebtedness is outstanding at the time the member is
26 appointed to retirement under the retirement incentive program, the pension benefits payable
27 to the member shall be reduced by an actuarial adjustment that eliminates the indebtedness.

28 (i) An employee who participates in an approved retirement incentive program under
29 this Act receives a credit of three years. The three years must be applied in the following
30 order of priority until exhausted:

31 (1) to meet the age or service required for eligibility for normal retirement

1 under AS 14.25.110 or AS 39.35.370, as appropriate;

2 (2) to meet the age required for early retirement under AS 14.25.110 or
3 AS 39.35.370, as appropriate;

4 (3) to reduce the actuarial adjustment required for early retirement under
5 AS 14.25.110 or AS 39.35.370, as appropriate;

6 (4) as years of credited service for calculating retirement benefits.

7 * **Sec. 3.** The uncoded law of the State of Alaska is amended by adding a new section to
8 read:

9 **AUTHORIZATION FOR STATE EMPLOYEE RETIREMENT INCENTIVE.** (a)
10 Subject to (b) of this section, an employee of a state agency may participate in a retirement
11 incentive program approved under sec. 2 of this Act by the administrator if the employee is
12 eligible to participate under sec. 2 of this Act and the employee

13 (1) has been continuously employed by the state for at least one year before
14 the employee applies to participate in the program;

15 (2) is a permanent seasonal employee employed by the state in a permanent
16 seasonal position for the entire period the position was filled during the 12 months preceding
17 the employee's application to participate in the program;

18 (3) has been employed under a job-sharing agreement in which a state agency
19 allowed two or more employees to share a single position that is identified by a single
20 position control number, for the entire period in which the position was shared during the 12
21 months preceding the employee's application to participate in the program; or

22 (4) meets a combination of the requirements of this subsection.

23 (b) The governor, the lieutenant governor, and a commissioner, deputy commissioner,
24 or assistant commissioner of a principal department of the executive branch of state
25 government may not retire under a retirement incentive program adopted under this Act.

26 * **Sec. 4.** The uncoded law of the State of Alaska is amended by adding a new section to
27 read:

28 **AUTHORIZATION FOR RETIREMENT INCENTIVE FOR EMPLOYEES OF THE**
29 **UNIVERSITY OF ALASKA.** Notwithstanding AS 14.40.661 - 14.40.799, a participant in a
30 university retirement program under AS 14.40.661 - 14.40.799 who is vested in a defined
31 benefit retirement plan in the public employees' retirement system or the teachers' retirement

1 system may participate in a retirement incentive program for that defined benefit retirement
 2 plan if the participant satisfies the requirements under this Act that apply to participants in
 3 that retirement incentive program.

4 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 5 read:

6 **POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION EMPLOYMENT.**
 7 Notwithstanding AS 14.25 or AS 39.35, for purposes of determining the years of service
 8 required for retirement under AS 14.25.110 or AS 39.35.370, as appropriate, an employee of a
 9 state agency who has vested as a member of a defined benefit retirement plan in the teachers'
 10 retirement system or the public employees' retirement system and applies to participate in a
 11 retirement incentive program approved under this Act may receive credit for service while
 12 employed with a political subdivision or a public organization that occurred before the
 13 political subdivision or public organization elected to participate in that defined benefit
 14 retirement plan. The credit may not be applied for the purpose of determining the amount of a
 15 retirement benefit.

16 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
 17 read:

18 **RECOVERY OF EMPLOYER DELINQUENCIES.** To recover a delinquency owed
 19 under this Act by an employer other than the state, the commissioner of administration may

20 (1) withhold an amount of money equal to the amount of the delinquency, or a
 21 lesser amount, from money payable to the employer by the state, and credit it against the
 22 delinquency; and

23 (2) bring an action against the employer.

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

26 **STOPPING ENROLLMENT FOR ACTUARIAL REASONS.** If the administrator
 27 determines after approving a retirement incentive program under this Act that an increase in
 28 the number of participants in that retirement incentive program will have a significant
 29 negative effect on the actuarial soundness of a defined benefit retirement plan in the teachers'
 30 retirement system or the public employees' retirement system, the administrator may close the
 31 program to new applicants.

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

3 REEMPLOYMENT INDEBTEDNESS; PROHIBITION ON REEMPLOYMENT. (a)

4 If an individual is reemployed as a member of the defined benefit retirement plan in the public
5 employees' retirement system under AS 39.35, the defined benefit retirement plan in the
6 teachers' retirement system under AS 14.25, the defined benefit retirement plan in the judicial
7 retirement system under AS 22.25, or the defined benefit retirement plan in the optional
8 university retirement program under AS 14.40.661 - 14.40.799 after appointment to
9 retirement under this Act, that individual forfeits incentive credit received or due under sec.
10 2(i) of this Act and incurs an indebtedness to the defined benefit retirement plan under which
11 the individual has been reemployed as a member. The indebtedness is 110 percent of the
12 amount, including health insurance premium costs, that the individual received solely as a
13 result of participation in a retirement incentive program under this Act. The administrator
14 shall apply the amount the individual has paid under sec. 2 of this Act as a requirement for
15 participation in the retirement incentive as a credit toward the member's reemployment
16 indebtedness under this subsection. Interest on the reemployment indebtedness accrues from
17 the date of reemployment until the date that the individual either is appointed to retirement
18 and accepts an actuarial adjustment to the individual's future benefits or repays the
19 indebtedness in full. The rate of interest is that established by regulation for the member's
20 defined benefit retirement plan by the Alaska Retirement Management Board.

21 (b) A state agency or the University of Alaska may not employ or contract for
22 personal services with an individual who is appointed to retirement under a retirement
23 incentive program authorized by this Act for a period of three years immediately following
24 the date of the individual's appointment to retirement, except that

25 (1) the University of Alaska may enter into a personal services contract with
26 the individual for teaching or research;

27 (2) the individual may accept employment with the legislature during a
28 legislative session if the employment is on an hourly basis and does not entitle the individual
29 to receive retirement, health, or leave benefits;

30 (3) the individual may accept employment with a school district as a substitute
31 teacher; and

(4) the individual may accept employment with a school district if the individual participated in the defined benefit retirement plan in the teachers' retirement system and the employment is on an hourly basis and does not entitle the individual to receive retirement, health, or leave benefits.

(c) Notwithstanding the prohibition in (b) of this section, a state agency or the University of Alaska may enter into a personal services contract with an individual who was appointed to retirement under this Act if the administrator approves the contract.

* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

OFFICE OF MANAGEMENT AND BUDGET. (a) The director of the office of management and budget shall review each retirement incentive program adopted by a state agency, determine whether the program will result in a net reduction to the operating costs of the state agency that adopted it for a five-year period beginning July 1, 2019, and report the outcome of the review to the administrator. The administrator may not approve a retirement incentive program adopted by a state agency under sec. 2 of this Act unless the office of management and budget determines that the program's expected effect on the state agency's operation costs is a net reduction. The state agency that adopts the program shall cooperate with and provide information to the office of management and budget to aid with the preparation of the review under this subsection and reports under (b) of this section.

(b) Beginning January 15, 2020, and continuing through January 15, 2023, the office of management and budget shall submit to the senate secretary and the chief clerk of the house of representatives an annual report on the retirement incentive programs established under this Act and notify the legislature that the report is available. Each report must provide the information necessary for the legislature to evaluate the retirement incentive programs, including the effect of the programs on the defined benefit retirement plans of the teachers' retirement system and the public employees' retirement system, and whether the programs are economical for employers. The report must include, for each program,

- (1) the designated employee categories;
- (2) the employer's cost for each participant;
- (3) the actual annual cost to the state;
- (4) for state agencies, the budgeted annual cost;

(5) the cost paid by each participant;

(6) the number of positions that became vacant as a result of the program and how many of those positions remain vacant;

(7) for the relevant three-year period, the projected net savings and the actual net savings resulting from the program.

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

PROGRAM CHANGES. An individual employee does not have a vested or contractual right to a benefit under this Act until an agreement is executed with the administrator that authorizes the employee to participate in that retirement incentive program. The legislature may change a retirement incentive program established under this Act as it relates to employees for whom an agreement under this section has not been executed.

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

REGULATIONS. The commissioner of administration may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement and interpret this Act.

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

DEFINITIONS. (a) Unless provided otherwise in this Act, the definitions set out in AS 14.25.220 apply to provisions in secs. 2 - 11 of this Act that relate to the teachers' retirement system and members of the teachers' retirement system.

(b) Unless provided otherwise in this Act, the definitions set out in AS 39.35.680 apply to provisions in secs. 2 - 11 of this Act that relate to the public employees' retirement system and members of the public employees' retirement system.

(c) In this Act,

(1) "administrator" means the commissioner of administration or the commissioner's designee;

(2) "employer" has the meaning given in AS 14.25.220 and AS 39.35.680;

(3) "office of management and budget" means the office of management and budget in the Office of the Governor;

(4) "public employees' retirement system" means the Public Employees'

1 Retirement System of Alaska (AS 39.35);

2 (5) "public organization" has the meaning given in AS 39.35.680;

3 (6) "state agency" means

4 (A) the legislative branch of state government;

5 (B) a principal department of the executive branch of state
6 government;

7 (C) an independent state entity that is attached to a principal
8 department of the executive branch of state government for administrative purposes
9 and is not a public organization as defined in AS 39.35.680; or

10 (D) the Office of the Governor;

11 (7) "teachers' retirement system" means the teachers' retirement system under
12 AS 14.25.

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

15 **APPLICABILITY TO EXISTING BENEFICIARIES.** Sections 1 - 12 of this Act may
16 not impair or diminish the retirement benefits of a person who is appointed to retirement
17 under a defined benefit retirement plan in the teachers' retirement system or the public
18 employees' retirement system, or receives a benefit under that plan, before the effective date
19 of this Act.

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

22 **APPLICABILITY TO CONTRACTS.** Sections 1 - 12 of this Act apply to contracts
23 made on or after the effective date of this Act.

24 * **Sec. 15.** Sections 1 - 12 of this Act are repealed July 1, 2022.

25 * **Sec. 16.** This Act takes effect immediately under AS 01.10.070(c).