

CS FOR SENATE BILL NO. 6(EDC)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE EDUCATION COMMITTEE

Offered: 3/24/21

Referred: Labor & Commerce, Finance

Sponsor(s): SENATOR KAWASAKI

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.

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

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

7 (1) in specific budget or administrative components designated by the
8 employer;

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

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

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

12 (b) Only the administrator may approve or deny an employee's application to
13 participate in a retirement incentive program adopted by an employer under (a) of this section.
14 The administrator shall deny an application by a teacher if, after consulting with the school
15 district that employs the teacher, the administrator determines that

16 (1) granting the application will create a vacant position that the school district
17 more likely than not will be unable to fill in a timely manner; and

18 (2) the school district's inability to fill the vacant position in a timely manner
19 will create undue hardship for the school district.

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

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

28 (2) a reimbursement agreement that requires

29 (A) the employer, for each employee who participates in the program,
30 to reimburse the defined benefit retirement plan in the appropriate retirement system,
31 within three years after the end of the fiscal year in which the employee is appointed

1 to retirement, in an amount equal to the actuarial equivalent of the difference between
 2 the benefits the participant receives after the addition of the credit under (i) of this
 3 section and the benefits the participant would have received without the credit, less the
 4 amount the participant has paid on the indebtedness determined under (g) or (h) of this
 5 section; and

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

9 (d) An employer that elects, under (a) of this section, to adopt a retirement incentive
 10 program may request that the administrator establish one or more periods during which one or
 11 more employees of the employer who are eligible under (e) of this section may apply to
 12 participate in the program. A period established by the administrator under this subsection
 13 may not begin earlier than 30 days after the date it is established or end later than June 30,
 14 2024, and must be not less than 30 days and not more than 60 days in duration.

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

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

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

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

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

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

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

30 (A) at least 15 years of credited service as a peace officer or firefighter,
 31 as those terms are defined in AS 39.35.680; or

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

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

5 (5) for an employer that is a state agency, the employee satisfies the additional
6 requirements under sec. 3 of this Act; and

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

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

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

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

4 (1) to meet the age or service required for eligibility for normal retirement
5 under AS 14.25.110 or AS 39.35.370, as appropriate;

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

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

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

11 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

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

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

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

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

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

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

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

1 AUTHORIZATION FOR RETIREMENT INCENTIVE FOR EMPLOYEES OF THE
 2 UNIVERSITY OF ALASKA. Notwithstanding AS 14.40.661 - 14.40.799, a participant in a
 3 university retirement program under AS 14.40.661 - 14.40.799 who is vested in a defined
 4 benefit retirement plan in the public employees' retirement system or the teachers' retirement
 5 system may participate in a retirement incentive program for that defined benefit retirement
 6 plan if the participant satisfies the requirements under this Act that apply to participants in
 7 that retirement incentive program.

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

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

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

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

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

27 (2) bring an action against the employer.

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

30 STOPPING ENROLLMENT FOR ACTUARIAL REASONS. If the administrator
 31 determines after approving a retirement incentive program under this Act that an increase in

1 the number of participants in that retirement incentive program will have a significant
 2 negative effect on the actuarial soundness of a defined benefit retirement plan in the teachers'
 3 retirement system or the public employees' retirement system, the administrator may close the
 4 program to new applicants.

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

7 REEMPLOYMENT INDEBTEDNESS; PROHIBITION ON REEMPLOYMENT. (a)

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

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

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

31 (2) the individual may accept employment with the legislature during a

1 legislative session if the employment is on an hourly basis and does not entitle the individual
2 to receive retirement, health, or leave benefits;

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

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

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

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

14 OFFICE OF MANAGEMENT AND BUDGET. (a) The director of the office of
15 management and budget shall review each retirement incentive program adopted by a state
16 agency, determine whether the program will result in a net reduction to the operating costs of
17 the state agency that adopted it for a five-year period beginning July 1, 2021, and report the
18 outcome of the review to the administrator. The administrator may not approve a retirement
19 incentive program adopted by a state agency under sec. 2 of this Act unless the office of
20 management and budget determines that the program's expected effect on the state agency's
21 operation costs is a net reduction. The state agency that adopts the program shall cooperate
22 with and provide information to the office of management and budget to aid with the
23 preparation of the review under this subsection and reports under (b) of this section.

24 (b) Beginning January 15, 2022, and continuing through January 15, 2025, the office
25 of management and budget shall submit to the senate secretary and the chief clerk of the
26 house of representatives an annual report on the retirement incentive programs established
27 under this Act and notify the legislature that the report is available. Each report must provide
28 the information necessary for the legislature to evaluate the retirement incentive programs,
29 including the effect of the programs on the defined benefit retirement plans of the teachers'
30 retirement system and the public employees' retirement system, and whether the programs are
31 economical for employers. The report must include, for each program,

- 1 (1) the designated employee categories;
- 2 (2) the employer's cost for each participant;
- 3 (3) the actual annual cost to the state;
- 4 (4) for state agencies, the budgeted annual cost;
- 5 (5) the cost paid by each participant;
- 6 (6) the number of positions that became vacant as a result of the program and
- 7 how many of those positions remain vacant;
- 8 (7) for the relevant three-year period, the projected net savings and the actual
- 9 net savings resulting from the program.

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

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

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

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

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

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

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

29 (c) In this Act,

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

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

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

4 (4) "public employees' retirement system" means the Public Employees'
5 Retirement System of Alaska (AS 39.35);

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

7 (6) "state agency" means

8 (A) the legislative branch of state government;

9 (B) a principal department of the executive branch of state
10 government;

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

14 (D) the Office of the Governor;

15 (7) "teachers' retirement system" means the teachers' retirement system under
16 AS 14.25.

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

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

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

26 **APPLICABILITY TO CONTRACTS.** Sections 1 - 12 of this Act apply to contracts
27 entered into on or after the effective date of this Act.

28 * **Sec. 15.** Sections 1 - 12 of this Act are repealed July 1, 2024.

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