CS SB 53 (JUD) Sectional
(Permanent Fund statutes)

September 9, 2021

This bill would establish a new statutory framework for spending of permanent fund income. Additionally, this bill includes a conditional effect provision (sec. 19) which would effectively limit a number of its provisions if by November 30, 2022 the voters have not approved a constitutional amendment regarding the permanent fund according to certain terms and the legislature has not enacted certain new revenue laws.

Section 1: This section sets out the legislative intent of the bill which is described as accomplishing four objectives:

(1) to implement the recommendations of the 2021 Comprehensive Fiscal Plan Working Group;

(2) harmonize the calculation of net income available for distribution under AS 37.13.140(a) and net income available for appropriation under AS 37.13.140(b);

(3) temporarily change the mechanism to draw money from the earnings reserve account to take advantage of earnings available while permitting the consideration and implementation of revenue measures and cost reductions for the long-term stability of the state; and

(4) reverse the changes made in this bill if the Comprehensive Fiscal Plan Working Group recommendations are not adopted.

Section 2: This section would delete language from the current AS 37.13.140(a) that describes a formula to determine the amount of income of the fund that is available for distribution. Section 2 would also provide that the amount available for appropriation from the earnings reserve account is 5% of the average market value of the fund for the first five of the preceding six fiscal years including the fiscal year just ended. Finally, Section 2 would amend AS 37.13.140(b) to clarify that the amount available for appropriation from the earnings reserve account may not exceed the balance in the earnings reserve account.

Section 3. This section would amend sec.2 and return to the existing statutory language for AS 37.13.140(a) and (b). This is the first of several provisions in the bill that would reverse changes made in the bill if conditions specified in sec. 19 take effect.

Section 3 would become effective under sec. 19 if by November 30, 2022 the voters did not approve a constitutional amendment that specifies a percent of market value draw from the permanent fund in which half of the draw would be used for permanent fund *dividends and require a deposit of the earnings reserve account into the permanent fund principal – or – revenue laws that anticipate at least $160,000,000 of new revenues each year have not been passed by the Thirty-Second Legislature and enacted into law.*

Section 4: This section would amend AS 37.13.145(b) to provide that of the amount appropriated each year from the earnings reserve account under AS 37.13.140(b):

- 50 percent may be appropriated to the dividend fund for dividends and
- 50 percent may be appropriated to the general fund.

Section 5: This section would amend sec. 4 and return to the existing statutory language. for AS 37.13.145(b).

Section 5 would become effective if the conditions described above and set out in sec. 19 take effect.

Section 6: This section amends AS 37.13.145(c) to authorize an appropriation, after the appropriation to the dividend fund and the general fund, to the principal of the permanent fund for inflation proofing.

Section 7: This section amends sec. 6 regarding inflation proofing to largely return to the existing statutory language for AS 37.13.145(c).

Section 7 would become effective if the conditions described above and set out in sec. 19 take effect.

Section 8: This section regarding permanent fund income earned as a result of the *State v. Amerada Hess* case clarifies that such money is not available for appropriation to the dividend fund or the principal and that it shall be deposited into the capital income fund.

Section 9: This section amends sec. 8 regarding the *State v. Amerada Hess* case to largely return to the existing statutory language in AS 37.13.145(d).

Section 9 would become effective if the conditions described above and set out in sec. 19 take effect.

Section 10: This section amends AS 37.13.145 to add subsection (g) providing that the legislature may not appropriate from the earnings reserve account to the general fund an amount that exceeds the amount available for appropriation under AS 37.13.140(b) in a fiscal year, and to add subsection (h) to provide that the total transfer under (b) and an appropriation under (g) of this section may not exceed the amount available for appropriation under AS 37.13.140(b).

Section 10 would become effective if the conditions described above and set out in sec. 19 take effect.

Section 11: This section clarifies that net income of the mental health trust fund is not included in the computation of the amount available for appropriation from the permanent fund earnings reserve account under AS 37.13.140(b) as described in section 2 of the bill.

Section 12: This section amends sec. 11 of the bill to return to the existing statutory language in AS 37.13.300(c).

Section 12 would become effective if the conditions described above and set out in sec. 19 take effect.

Section 13: This section amending AS 37.14.031(c) clarifies that the Alaska Permanent Fund Corporation shall calculate annually the net income of the fund according to generally accepted accounting principles and excluding any unrealized gains or losses.

Section 14: This section amends sec. 13 of the bill to return to the existing statutory language in AS 37.14.031(c).

Section 14 would become effective if the conditions described above and set out in sec. 19 take effect.

Section 15: This section amends AS 43.23.025(a) to state that the legislature places money in the dividend fund by appropriation.

Section 16: This section amends sec. 15 to return to the existing statutory language in AS 43.23.025(a).

Section 16 would become effective if the conditions described above and set out in sec. 19 take effect.

Section 17: This section repeals AS 37.13.145(e) and 37.13.145(f) which relate to total appropriations from the earnings reserve.

Section 18: This section is an uncodified law provision that provides for the fiscal years 2022 and 2023 the legislature may, in addition to the amount calculated under AS 37.13.140(b), appropriate an additional 1.5 percent of the average market value of the permanent fund.

Section 19: This section is the conditional effect provision described above.

Section 20: This section provides that if the conditional effect provision under sec. 19 takes effect, secs. 3, 5, 7, 9, 10, 12, 14, and 16 of the bill take effect July 1, 2023.

Section 21: This section provides that except for section 20, this bill would take effect immediately under AS 01.10.070(c).