

**HOUSE BILL NO. 341**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVE JAMES**

**Introduced: 1/23/98**

**Referred: State Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the members of the board and staff of the Alaska  
2 Permanent Fund Corporation; and providing for an effective date."

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

4 \* **Section 1.** AS 37.13.050(a) is amended to read:

5 (a) The Board of Trustees of the Alaska Permanent Fund Corporation consists  
6 of seven [SIX] members appointed by the governor. Two of the members must be  
7 heads of principal departments of state government, one of whom shall be the  
8 commissioner of revenue. Five [FOUR] members shall be appointed by the governor  
9 from the public and may not hold any other state or federal office, position, or  
10 employment, either elective or appointive, except as a member of the armed forces of  
11 either the United States or of this state.

12 \* **Sec. 2.** AS 37.13.050(b) is amended to read:

13 (b) The [FOUR] public members of the board must have recognized  
14 competence and wide experience in finance, investments, or other business

1 management-related fields, **and at least one of the public members must have**  
 2 **recognized competence and experience in investment portfolio management.**

3 \* **Sec. 3.** AS 37.13.060 is amended to read:

4 **Sec. 37.13.060. Term of office.** The public members of the board shall be  
 5 appointed for terms of four years, and they may be reappointed. The terms of the  
 6 public members shall be staggered so that **the terms of** no more than **two** [ONE  
 7 TERM OF A] public **members expire** [MEMBER EXPIRES] each year.

8 \* **Sec. 4.** AS 37.13.070(a) is amended to read:

9 (a) The governor may remove a **public** member of the board from office **only**  
 10 **for cause.** A removal by the governor must be in writing and must state the reason  
 11 for the removal. A member who is removed by the governor may not participate in  
 12 board business and may not be counted for purposes of establishing a quorum after the  
 13 member receives written notice of removal from the governor. **In this subsection,**  
 14 **"cause" means**

15 **(1) incompetency, which is the inability or the unintentional or**  
 16 **intentional failure to perform the duties of the trustee; or**

17 **(2) misfeasance or malfeasance in office, which includes the failure**  
 18 **of the trustee to exercise prudent judgment in the affairs of the corporation or**  
 19 **intentionally taking action for reasons other than the financial best interest of the**  
 20 **corporation.**

21 \* **Sec. 5.** AS 37.13 is amended by adding a new section to read:

22 **Sec. 37.13.075. Limitations on governor.** (a) The governor shall base the  
 23 decision to appoint a board member solely on the financial best interest of the fund.

24 (b) The governor may not influence or attempt to influence the board to make  
 25 an investment decision that violates prudent investment principles.

26 (c) Violation of this section constitutes a violation of AS 39.52.

27 \* **Sec. 6.** AS 37.13.100 is amended to read:

28 **Sec. 37.13.100. Corporation staff.** The board may employ and determine the  
 29 salary of an executive director. The executive director may, with the approval of the  
 30 board, select and employ additional staff as necessary. **The executive director and**  
 31 **other employees with investment responsibilities serve at the pleasure of the**

1        **board, except that the board may enter into employment contracts that do not**  
2        **exceed two years' duration.** An employee of the corporation, including the executive  
3        director, may not be a member of the board. The executive director and the other  
4        employees of the board are in the exempt service under AS 39.25.

5        \* **Sec. 7.** AS 37.13.120(a) is amended to read:

6                (a) The prudent-investor rule shall be applied by the board in the management  
7                and investment of fund assets. The prudent-investor rule as applied to investments of  
8                the fund means that, in making investments, the board shall exercise the judgment and  
9                care under the circumstances then prevailing that an institutional investor of ordinary  
10              prudence, discretion, and intelligence exercises in the management of large investments  
11              entrusted to it not in regard to speculation but in regard to the permanent disposition  
12              of funds, considering probable safety of capital as well as probable income. **Each**  
13              **board member has a fiduciary duty to the fund, and each member shall perform**  
14              **official actions solely in accordance with that duty.**

15        \* **Sec. 8.** Section 4 of this Act takes effect only if an amendment is adopted during 1998  
16        to art. IX, sec. 15, Constitution of the State of Alaska, relating to a public corporation  
17        established to manage the permanent fund and providing that certain members of the board  
18        of the corporation may only be removed as provided by law.

19        \* **Sec. 9.** If sec. 4 of this Act takes effect, it takes effect on the effective date of an  
20        amendment to art. IX, sec. 15, Constitution of the State of Alaska, relating to a public  
21        corporation established to manage the permanent fund and providing that certain members of  
22        the board of the corporation may only be removed as provided by law.