

HOUSE BILL NO. 287

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES CHENAULT, Olson, Johnson, Millett

Introduced: 2/1/16
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the duties and powers of the attorney general; relating to the
2 governor's power to appoint the attorney general to a state board or commission, the
3 governing body of a public corporation, or any other entity that has a governing body;
4 requesting that the governor replace the attorney general on the Alaska Permanent
5 Fund Corporation board; and providing for an effective date."

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

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

9 LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that
10 (1) the attorney general is responsible for representing the state in all civil and
11 criminal actions in which the state is a party or in which the state has an interest;
12 (2) although a state public corporation may have a legal existence independent
13 of and separate from the state, the attorney general may be involved in representing the state's
14 interest in litigation or other legal proceedings in which the public corporation is a party;

1 (3) in addition to state public corporations, other state commissions, boards,
2 agencies, and other state entities with a governing body may be involved in litigation or other
3 legal proceedings in which the attorney general represents the state;

4 (4) the attorney general may be compromised, have a conflict of interest, or
5 appear to have a conflict of interest if the attorney general is a member of the governing body
6 of a public corporation or is a member of a board, commission, or other governing body of a
7 state entity that is involved in litigation or other legal proceeding and the attorney general
8 represents the state or the interest of the state in the litigation or other legal proceeding; and

9 (5) having the attorney general serve on the board of trustees or governing
10 body of a public corporation or other state entity with responsibility for managing a major
11 program or overseeing the management of significant state assets takes away or reduces the
12 attorney general's time, energy, and focus on representing the state's interest in civil and
13 criminal litigation and providing legal advice to state entities, particularly those entities
14 responsible for managing the state's natural resources.

15 (b) The purpose of this Act is to prohibit the attorney general from being appointed to
16 or serving on a governing body of a state public corporation, board, commission, or other
17 governing body of a state entity to avoid the attorney general being compromised, having a
18 conflict of interest, or having the appearance of a conflict of interest when representing the
19 state's interest in litigation or other legal proceeding in which the state public corporation,
20 board, commission, or other state entity is a party.

21 * **Sec. 2.** AS 11.71.100(a) is amended to read:

22 (a) The Controlled Substances Advisory Committee is established in the
23 Department of Law. The committee consists of

24 (1) **a state prosecutor, other than the attorney general, with**
25 **experience in controlled substance prosecutions appointed by the attorney**
26 **general** [THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S
27 DESIGNEE];

28 (2) the commissioner of health and social services or the
29 commissioner's designee;

30 (3) the commissioner of public safety or the commissioner's designee;

31 (4) the president of the Board of Pharmacy or the designee of the

1 president who shall also be a member of the Board of Pharmacy;

2 (5) a peace officer appointed by the governor after consultation with
3 the Alaska Association of Chiefs of Police;

4 (6) a physician appointed by the governor;

5 (7) a psychiatrist appointed by the governor; and

6 (8) two individuals appointed by the governor.

7 * **Sec. 3.** AS 11.71.100(c) is amended to read:

8 (c) The **commissioner of public safety** [ATTORNEY GENERAL] is the
9 **chair** [CHAIRMAN] of the committee.

10 * **Sec. 4.** AS 12.62.100(a) is amended to read:

11 (a) The Criminal Justice Information Advisory Board is established in the
12 department. The board consists of the following members:

13 (1) a member of the general public appointed by and serving at the
14 pleasure of the governor;

15 (2) a municipal police chief appointed by and serving at the pleasure of
16 the governor; in making this appointment, the governor shall consult with the Alaska
17 Association of Chiefs of Police;

18 (3) **a state prosecutor, other than the attorney general, experienced**
19 **in the use of criminal justice information appointed by** the attorney general [OR
20 THE ATTORNEY GENERAL'S DESIGNEE];

21 (4) the chief justice of the supreme court or the chief justice's designee;

22 (5) the commissioner of administration or the commissioner's
23 designee;

24 (6) the commissioner of corrections or the commissioner's designee;

25 (7) the commissioner of health and social services or the
26 commissioner's designee;

27 (8) the commissioner of public safety or the commissioner's designee,
28 who will serve as chair of the board; and

29 (9) the executive director of the Alaska Judicial Council or the
30 executive director's designee.

31 * **Sec. 5.** AS 18.66.020(a) is amended to read:

1 (a) The council consists of

2 (1) four public members appointed by the governor, one of whom shall
3 be from a rural area; the governor may consult with the Alaska Network on Domestic
4 Violence and Sexual Assault, a nonprofit corporation, in appointing the public
5 members under this paragraph; the Alaska Network on Domestic Violence and Sexual
6 Assault shall submit a list to the governor of persons recommended for appointment;

7 (2) the commissioner of public safety or the designee of the
8 commissioner of public safety;

9 (3) the commissioner of health and social services or the designee of
10 the commissioner of health and social services;

11 (4) the commissioner of education and early development or the
12 designee of the commissioner of education and early development;

13 (5) **a state prosecutor, other than the attorney general, experienced**
14 **in domestic violence and sexual assault prosecution appointed by** the attorney
15 general [OR THE DESIGNEE OF THE ATTORNEY GENERAL]; and

16 (6) the commissioner of corrections or the designee of the
17 commissioner of corrections.

18 * **Sec. 6.** AS 30.13.020(c) is amended to read:

19 (c) The three members appointed by the governor shall be the commissioner
20 of transportation and public facilities and the heads of two other principal departments
21 of the executive branch, **except that the attorney general may not be appointed to**
22 **serve on the board.**

23 * **Sec. 7.** AS 30.17.020(a) is amended to read:

24 (a) The membership of the authority consists of

25 (1) the commissioner of commerce, community, and economic
26 development;

27 (2) two other persons selected by the governor who serve as the heads
28 of principal departments of the executive branch of state government, **except that the**
29 **attorney general may not be appointed to serve on the board;** and

30 (3) four public members appointed by the governor, two of whom must
31 be residents of the area that is within the boundaries of the Aleut Corporation, a Native

1 regional corporation established under 43 U.S.C. 1606 (Alaska Native Claims
2 Settlement Act).

3 * **Sec. 8.** AS 31.25.020(a) is amended to read:

4 (a) The corporation shall be governed by a board of directors consisting of
5 (1) five public members; and
6 (2) two individuals designated by the governor that are each the head
7 of a principal department of the state, except that the commissioner of natural
8 resources, the attorney general, and the commissioner of revenue may not be
9 designated to serve on the board.

10 * **Sec. 9.** AS 37.13.050(a) is amended to read:

11 (a) The Board of Trustees of the Alaska Permanent Fund Corporation consists
12 of six members appointed by the governor. Two of the members must be heads of
13 principal departments of state government, one of whom shall be the commissioner of
14 revenue and the other member may not be the attorney general. Four members
15 shall be appointed by the governor from the public and may not hold any other state or
16 federal office, position or employment, either elective or appointive, except as a
17 member of the armed forces of either the United States or of this state.

18 * **Sec. 10.** AS 39.25.020 is amended by adding a new subsection to read:

19 (c) Notwithstanding (a) of this section, the attorney general may not be
20 appointed to a state board or commission and may not be appointed to a governing
21 body of a state public corporation or any other entity that has a governing body.

22 * **Sec. 11.** AS 43.19.040 is amended to read:

23 **Sec. 43.19.040. Advisory committee.** There is established the Multistate Tax
24 Compact Advisory Committee composed of the member of the Multistate Tax
25 Commission representing this state, any alternate designated by the member, an
26 attorney in the Department of Law, other than the attorney general, experienced
27 in multistate tax appointed by the attorney general [OR THE DESIGNEE OF THE
28 ATTORNEY GENERAL], the members of the consulting committee, two members of
29 the senate to be appointed by the president, and two members of the house of
30 representatives to be appointed by the speaker. The chair [CHAIRMAN] shall be the
31 member of the commission representing this state. The committee shall meet on the

1 call of its **chair** [CHAIRMAN] or at the request of a majority of its members, but in
 2 any event it shall meet not less than three times in each year. The committee may
 3 consider all matters relating to recommendations of the Multistate Tax Commission
 4 and the activities of the members in representing this state on the commission.

5 * **Sec. 12.** AS 44.19.642(a) is amended to read:

6 (a) The commission consists of 13 members as follows:

7 (1) the chief justice of the Alaska Supreme Court or another active or
 8 retired justice of the supreme court or an active or retired judge of the court of appeals
 9 designated by the chief justice;

10 (2) an active or retired superior court judge designated by the chief
 11 justice for a three-year term;

12 (3) an active or retired district court judge designated by the chief
 13 justice for a three-year term;

14 (4) a member of the Alaska Native community designated by the
 15 Alaska Native Justice Center for a three-year term;

16 (5) **a state prosecutor, other than the attorney general, experienced**
 17 **in criminal prosecution appointed by** the attorney general [OR A DESIGNEE OF
 18 THE ATTORNEY GENERAL];

19 (6) the public defender or a designee of the public defender;

20 (7) the commissioner of corrections or the commissioner's designee;

21 (8) the commissioner of public safety or the commissioner's designee;

22 (9) the chief executive officer of the Alaska Mental Health Trust
 23 Authority or the chief executive officer's designee for a three-year term;

24 (10) an active duty member of a municipal law enforcement agency
 25 appointed by the governor for a three-year term;

26 (11) one victims' rights advocate appointed by the governor for a three-
 27 year term;

28 (12) one nonvoting member, serving ex officio, who is a member of
 29 the senate appointed by the president of the senate; and

30 (13) one nonvoting member, serving ex officio, who is a member of
 31 the house of representatives appointed by the speaker of the house of representatives.

1 * **Sec. 13.** AS 44.23.020 is amended by adding a new subsection to read:

2 (i) The attorney general may not be appointed to or serve as a member of a
3 state board or commission and may not be appointed to serve or be a member of the
4 governing body of a state public corporation or other state entity that has a governing
5 body.

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

8 REQUEST TO REPLACE THE ATTORNEY GENERAL WITH A DIFFERENT
9 HEAD OF A PRINCIPAL DEPARTMENT OF STATE GOVERNMENT TO SERVE ON
10 THE BOARD OF TRUSTEES OF THE ALASKA PERMANENT FUND CORPORATION.

11 The Alaska State Legislature respectfully requests the governor to replace the attorney general
12 as a member of the board of trustees of the Alaska Permanent Fund Corporation with a
13 different head of a principal department of state government. This request is made to allow
14 the attorney general to concentrate the attorney general's time, efforts, and focus on
15 representing the state's interest in civil and criminal litigation and providing legal advice to
16 state entities.

17 * **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).