

SENATE CS FOR HOUSE BILL NO. 137(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/14/17

Referred: Rules

Sponsor(s): HOUSE EDUCATION COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act redesignating the Alaska State Council on the Arts as a public corporation and**
2 **governmental instrumentality of the state; defining the powers and duties of the Alaska**
3 **State Council on the Arts; providing exemptions from certain statutes for the Alaska**
4 **State Council on the Arts; making conforming amendments; and providing for an**
5 **effective date."**

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

7 * **Section 1.** AS 39.25.110 is amended to read:

8 **Sec. 39.25.110. Exempt service.** Unless otherwise provided by law, the
9 following positions in the state service constitute the exempt service and are exempt
10 from the provisions of this chapter and the rules adopted under it:

11 (1) persons elected to public office by popular vote or appointed to fill
12 vacancies in elected offices;

13 (2) justices, judges, magistrates, and employees of the judicial branch

1 including employees of the judicial council;

2 (3) employees of the state legislature and its agencies;

3 (4) the head of each principal department in the executive branch;

4 (5) officers and employees of the University of Alaska;

5 (6) certificated teachers and noncertificated employees employed by a
6 regional educational attendance area established and organized under AS 14.08.031 -
7 14.08.041 to teach in, administer, or operate schools under the control of a regional
8 educational attendance area school board;

9 (7) certificated teachers employed by the Department of Education and
10 Early Development as correspondence teachers, teachers in skill centers operated by
11 the Department of Education and Early Development or by the Department of Labor
12 and Workforce Development, or in Mt. Edgecumbe School;

13 (8) patients and inmates employed in state institutions;

14 (9) persons employed in a professional capacity to make a temporary
15 or special inquiry, study or examination as authorized by the governor;

16 (10) members of boards, commissions, or authorities;

17 (11) the officers and employees of the following boards, commissions,
18 and authorities:

19 (A) [REPEALED]

20 (B) Alaska Permanent Fund Corporation;

21 (C) Alaska Industrial Development and Export Authority;

22 (D) Alaska Commercial Fisheries Entry Commission;

23 (E) Alaska Commission on Postsecondary Education;

24 (F) Alaska Aerospace Corporation;

25 (G) [REPEALED]

26 (H) Alaska Gasline Development Corporation and subsidiaries
27 of the Alaska Gasline Development Corporation;

28 (12) the executive secretary and legal counsel of the Alaska Municipal
29 Bond Bank Authority;

30 (13) the state medical examiner, deputy medical examiner, and
31 assistant medical examiners appointed under AS 12.65.015 and pharmacists and

1 physicians licensed to practice in this state and employed by the Department of Health
2 and Social Services or by the Department of Corrections;

3 (14) petroleum engineers and petroleum geologists employed in a
4 professional capacity by the Department of Natural Resources and by the Alaska Oil
5 and Gas Conservation Commission;

6 (15) [REPEALED]

7 (16) persons employed by the division of marine transportation as
8 masters and members of the crews of vessels who operate the state ferry system and
9 who are covered by a collective bargaining agreement provided in AS 23.40.040;

10 (17) officers and employees of the state who reside in foreign
11 countries;

12 (18) employees of the Alaska Seafood Marketing Institute;

13 (19) emergency firefighting personnel employed by the Department of
14 Natural Resources for a fire emergency or for fire prevention and related activities
15 conducted under AS 41.15.030;

16 (20) employees of the Office of the Governor and the office of the
17 lieutenant governor, including the staff of the governor's mansion;

18 (21) [REPEALED]

19 (22) youth employed by the Department of Natural Resources under
20 the Youth Employment and Student Intern programs;

21 (23) [REPEALED]

22 (24) students employed by the state institutions in which the students
23 are enrolled;

24 (25) [REPEALED]

25 (26) investment officers in the Department of Revenue;

26 (27) [REPEALED]

27 (28) persons engaged in employment or pre-employment training
28 programs operated by the Department of Military and Veterans' Affairs;

29 (29) [REPEALED]

30 (30) a person employed as an actuary or assistant actuary by the
31 division of insurance in the Department of Commerce, Community, and Economic

1 Development;

2 (31) [REPEALED]

3 (32) a participant in the Alaska temporary assistance program under
4 AS 47.27 who holds a temporary position with the state in order to obtain job training
5 or experience;

6 (33) a person employed as a convener under AS 44.62.730 or as a
7 facilitator under AS 44.62.760 related to a negotiated regulation making process under
8 AS 44.62.710 - 44.62.800;

9 (34) the chief executive officer and employees of the Alaska Mental
10 Health Trust Authority employed under AS 47.30.026(b);

11 (35) the assistant adjutant general for space and missile defense
12 appointed under AS 26.05.185;

13 (36) the victims' advocate established under AS 24.65.010 and the
14 advocate's staff;

15 (37) employees of the Alaska mental health trust land unit established
16 under AS 44.37.050;

17 (38) the executive director of the Council on Domestic Violence and
18 Sexual Assault established under AS 18.66.010;

19 (39) the executive director and employees of the Knik Arm Bridge and
20 Toll Authority under AS 19.75.051 and 19.75.061;

21 (40) the chair of the Workers' Compensation Appeals Commission
22 (AS 23.30.007);

23 (41) the Alaska Gasline Inducement Act coordinator appointed under
24 AS 43.90.250;

25 (42) oil and gas audit masters employed in a professional capacity by
26 the Department of Revenue and the Department of Natural Resources to collect oil and
27 gas revenue by developing policy, conducting studies, drafting proposed regulations,
28 enforcing regulations, and directing audits by oil and gas revenue auditors;

29 (43) the in-state gasline project coordinator appointed under
30 AS 38.34.010;

31 **(44) the executive director and employees of the Alaska State**

Council on the Arts employed under AS 44.27.054 and 44.27.055.

* **Sec. 2.** AS 40.25.120(a) is amended to read:

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance;

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

(D) could reasonably be expected to disclose the identity of a confidential source;

(E) would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;

(F) would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(G) could reasonably be expected to endanger the life or physical safety of an individual;

1 (7) names, addresses, and other information identifying a person as a
 2 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
 3 advance college tuition savings program under AS 14.40.803 - 14.40.817;

4 (8) public records containing information that would disclose or might
 5 lead to the disclosure of a component in the process used to execute or adopt an
 6 electronic signature if the disclosure would or might cause the electronic signature to
 7 cease being under the sole control of the person using it;

8 (9) reports submitted under AS 05.25.030 concerning certain
 9 collisions, accidents, or other casualties involving boats;

10 (10) records or information pertaining to a plan, program, or
 11 procedures for establishing, maintaining, or restoring security in the state, or to a
 12 detailed description or evaluation of systems, facilities, or infrastructure in the state,
 13 but only to the extent that the production of the records or information

14 (A) could reasonably be expected to interfere with the
 15 implementation or enforcement of the security plan, program, or procedures;

16 (B) would disclose confidential guidelines for investigations or
 17 enforcement and the disclosure could reasonably be expected to risk
 18 circumvention of the law; or

19 (C) could reasonably be expected to endanger the life or
 20 physical safety of an individual or to present a real and substantial risk to the
 21 public health and welfare;

22 (11) the written notification regarding a proposed regulation provided
 23 under AS 24.20.105 to the Department of Law and the affected state agency and
 24 communications between the Legislative Affairs Agency, the Department of Law, and
 25 the affected state agency under AS 24.20.105;

26 (12) records that are

27 (A) proprietary, privileged, or a trade secret in accordance with
 28 AS 43.90.150 or 43.90.220(e);

29 (B) applications that are received under AS 43.90 until notice is
 30 published under AS 43.90.160;

31 (13) information of the Alaska Gasline Development Corporation

created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development Corporation that is confidential by law or under a valid confidentiality agreement;

(14) information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement under AS 38.05.020(b)(12);

(15) records relating to proceedings under AS 09.58 (Alaska Medical Assistance False Claim and Reporting Act);

(16) names, addresses, and other information identifying a person as a participant in the Alaska savings program for eligible individuals under AS 06.65;

(17) artists' submissions made in response to an inquiry or solicitation initiated by the Alaska State Council on the Arts under AS 44.27.060.

* **Sec. 3.** AS 44.27.040 is repealed and reenacted to read:

Sec. 44.27.040. Alaska State Council on the Arts. The Alaska State Council on the Arts is created as a public corporation of the state in the Department of Education and Early Development but with separate and independent legal existence. Upon termination of the council, its rights and property pass to the state.

* **Sec. 4.** AS 44.27.041 is amended to read:

Sec. 44.27.041. Board of trustees [COMPOSITION]. The Alaska State Council on the Arts **shall be governed by a board of trustees consisting** [CONSISTS] of 11 members, broadly representative of all fields of the performing, visual, **literary**, and fine arts, who are widely known for their competence and experience or **expertise** [INTEREST] in connection with the performing, visual, **literary**, and fine arts.

* **Sec. 5.** AS 44.27.042 is amended to read:

Sec. 44.27.042. Appointment. The **trustees** [MEMBERS] are to be appointed by the governor from among citizens of the state. In making the appointments, consideration must be given to the recommendations made by representative civic, educational, and professional associations and groups concerned with or engaged in the production or presentation of the performing, visual, **literary**, and fine arts generally. In making the appointments, consideration must also be given to having statewide geographical representation on the **board of trustees** [COUNCIL]. The **trustees** [MEMBERS OF THE COUNCIL] serve at the pleasure of

the governor and their appointments are not subject to legislative confirmation.

* **Sec. 6.** AS 44.27.043 is amended to read:

Sec. 44.27.043. Terms of office. The term of office of each trustee [MEMBER] is three years. All vacancies are to be filled for the balance of the unexpired term in the same manner as original appointments.

* **Sec. 7.** AS 44.27.044 is amended to read:

Sec. 44.27.044. Compensation. The trustees [MEMBERS OF THE COUNCIL] are not entitled to receive compensation for their services, but they may be reimbursed by the council for actual and necessary travel expenses at the same rate paid to members of state boards under AS 39.20.180 [ARE ENTITLED TO RECEIVE THE SAME TRAVEL PAY AND PER DIEM AS PROVIDED BY LAW FOR BOARD MEMBERS].

* **Sec. 8.** AS 44.27.045 is amended to read:

Sec. 44.27.045. Chair [CHAIRMAN] and vice-chair [VICE-CHAIRMAN]. The governor shall designate a chair [CHAIRMAN] and a vice-chair [VICE-CHAIRMAN] from the trustees. The chair and vice-chair [MEMBERS OF THE COUNCIL TO] serve [AS SUCH] at the pleasure of the governor. The chair [CHAIRMAN] shall be the chief executive officer of the board of trustees [COUNCIL].

* **Sec. 9.** AS 44.27.050 is amended to read:

Sec. 44.27.050. Duties of council. The [DUTIES OF THE] council shall [ARE]

(1) [TO] stimulate and encourage throughout the state the study and presentation of the performing, visual, literary, and fine arts and public interest, [AND] participation, and investment in the arts;

(2) conduct research [TO MAKE SURVEYS, WHICH ARE] considered advisable on [, OF] public and private institutions engaged in the state in artistic and cultural activities, including [BUT NOT LIMITED TO] music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and [TO] make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all

1 parts of the state;

2 (3) [TO] take steps necessary and appropriate to encourage public
3 interest in the cultural heritage of the state and to expand the state's cultural resources;

4 (4) [TO] encourage and assist freedom of artistic expression essential
5 for the well-being [WELL BEING] of the arts;

6 (5) [TO] manage the art in public places fund;

7 (6) [TO] administer the provisions of AS 45.65 relating to the
8 identification seal [SEALS] for authentic Alaska Native art created or crafted in the
9 state and adopt regulations to carry out those provisions.

10 * **Sec. 10.** AS 44.27.052(a) is amended to read:

11 (a) The council may

12 (1) hold public and private hearings;

13 (2) enter into contracts, within the limit of funds available, with
14 individuals, organizations, and institutions for services furthering the strategic
15 [EDUCATIONAL] objectives of the council's programs;

16 (3) enter into contracts, within the limit of funds available, with local
17 and regional associations for cooperative endeavors furthering the strategic
18 [EDUCATIONAL] objectives of the council's programs;

19 (4) accept gifts, contributions, and bequests of unrestricted funds from
20 individuals, foundations, corporations, and other organizations or institutions for the
21 purpose of furthering the strategic [EDUCATIONAL] objectives of the council's
22 programs;

23 (5) make and sign agreements and do and perform any acts necessary
24 to carry out the purposes of AS 44.27.040 - 44.27.060; and

25 (6) adopt regulations under AS 44.62 (Administrative Procedure Act)
26 to carry out the provisions of AS 44.27.040 - 44.27.060.

27 * **Sec. 11.** AS 44.27.054 is amended to read:

28 **Sec. 44.27.054. Powers of chair [CHAIRMAN].** Subject to available
29 appropriations, the chair [CHAIRMAN] may, with the concurrence of a majority of
30 the trustees,

31 **(1)** [COUNCIL,] employ necessary personnel; the personnel

1 **employed by the council are exempt from AS 39.25 (State Personnel Act);** and

2 **(2)** [MAY] contract for the services of experts and other persons who
3 may be needed.

4 * **Sec. 12.** AS 44.27 is amended by adding a new section to read:

5 **Sec. 44.27.055. Administration of affairs.** (a) The board of trustees shall
6 manage the assets and exercise the authority of the corporation and may adopt, amend,
7 and repeal bylaws and regulations governing the manner in which the business of the
8 corporation is conducted and the manner in which the corporation's powers are
9 exercised.

10 (b) The board of trustees shall employ an executive director who is not a
11 member of the board of trustees to supervise administration of the corporation. The
12 executive director serves at the pleasure of the board of trustees.

13 (c) The council is exempt from AS 36.30 (State Procurement Code). The
14 board of trustees shall adopt and publish procedures to govern procurement of
15 supplies, services, professional services, and construction. The procurement
16 procedures must include the preferences of an Alaska bidder and an Alaska veteran
17 that are consistent with the preferences in AS 36.30.321.

18 (d) The operating budget of the council is subject to AS 37.07 (Executive
19 Budget Act).

20 * **Sec. 13.** AS 44.27.058 is amended to read:

21 **Sec. 44.27.058. National endowment funds.** The council is the official
22 agency of this state to receive and disburse funds made available by the National
23 Endowment for the Arts **and shall comply with the requirements of 20 U.S.C. 951 -**
24 **960 (National Foundation on the Arts and the Humanities Act of 1965), as**
25 **amended, in the receipt and disbursement of the funds.**

26 * **Sec. 14.** AS 44.27.060 is amended by adding new subsections to read:

27 (e) Except as provided in (f) and (g) of this section, an artist's submission
28 made in response to an inquiry or solicitation initiated by the council under this
29 section is confidential and not subject to public inspection or disclosure under
30 AS 40.25.100 - 40.25.295 (Alaska Public Records Act).

31 (f) If the council awards a commission for an artist's submission that is

confidential under (e) of this section, the submission is no longer confidential and the council shall disclose the submission to any person who requests the disclosure. If the council does not award a commission for the submission, the council shall notify the artist and return the submission at the artist's request.

(g) The provisions of (e) and (f) of this section do not apply to an artist's submission if the council finds that the artist

(1) created the submission as a work made for hire, as that term is defined in 17 U.S.C. 101; or

(2) has transferred the artist's copyright for the work under 17 U.S.C. 204.

* **Sec. 15.** AS 44.27 is amended by adding a new section to read:

Sec. 44.27.090. Definitions. In this chapter,

(1) "board of trustees" means the board of trustees of the Alaska State Council on the Arts;

(2) "council" means the Alaska State Council on the Arts.

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

ALASKA STATE COUNCIL ON THE ARTS; TRANSITION. (a) A person who is a member of the Alaska State Council on the Arts on the day before the effective date of this Act is a member of the board of trustees of the Alaska State Council on the Arts on the effective date of this Act and may continue to serve the remainder of the member's term or until removed by the governor.

(b) A person who is employed by the Alaska State Council on the Arts on the day before the effective date of this Act becomes an employee of the Alaska State Council on the Arts public corporation under AS 44.27.040, added by sec. 3 of this Act, on the effective date of this Act.

(c) Regulations adopted under authority of a law amended by this Act remain in effect until revoked, vacated, or otherwise modified under the provisions of this Act. Contracts, rights, liabilities, and obligations created by or under a law amended by this Act remain in effect notwithstanding this Act's taking effect.

(d) The Alaska State Council on the Arts public corporation under AS 44.27.040,

- 1 added by sec. 3 of this Act, shall retain records, equipment, appropriations, and other property
- 2 of the Alaska State Council on the Arts.
- 3 * **Sec. 17.** This Act takes effect July 1, 2017.