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Referred: State Affairs and
Finance

1 IN THE HOUSE

BY METCALFE

2 HOUSE BILL NO. 770

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska permanent fund."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 37.13.010(a) is repealed and reenacted to read:

9 (a) Under art. IX, sec. 15 of the state constitution, there is
10 established as a separate fund the Alaska permanent fund. The Alaska
11 permanent fund consists of

12 (1) one hundred percent of mineral lease bonuses after deduc-
13 tion of amounts allocated

14 (A) to the Alaska Native Fund under the Alaska Native
15 Claims Settlement Act and implementing state legislation; and

16 (B) in AS 37.11.020 to the Alaska renewable resources
17 development fund;

18 (2) twenty-five percent of all mineral lease rentals, royal-
19 ties, royalty sale proceeds, and federal mineral revenue sharing payments
20 received by the state; and

21 (3) any other money appropriated or otherwise allocated by
22 law to the Alaska permanent fund.

23 * Sec. 2. AS 37.13.040 is amended to read:

24 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is
25 established the Alaska Permanent Fund Corporation. The corporation is a
26 public corporation and government instrumentality in the Department of
27 Revenue managed by the board of trustees but has a legal existence inde-
28 pendent of and separate from the state. The purpose of the board is to
29 manage and invest the assets of the corporation in accordance with this

1 chapter.

2 * Sec. 3. AS 37.13.050 is repealed and reenacted to read:

3 Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The board
4 of trustees consists of three members appointed by the governor and
5 confirmed by a majority of the members of the legislature in joint
6 session.

7 (b) The board shall annually elect a chair from among its members.

8 * Sec. 4. AS 37.13.060 is amended to read:

9 Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be
10 appointed for terms of three years, and they may be reappointed subject
11 to confirmation by a majority of the members of the legislature in joint
12 session. Terms shall be staggered. [INITIAL TERMS FOR MEMBERS OTHER
13 THAN THE COMMISSIONER OF REVENUE SHALL BE TWO MEMBERS SERVING FOR ONE
14 YEAR, TWO MEMBERS SERVING FOR TWO YEARS, AND ONE MEMBER SERVING FOR
15 THREE YEARS.]

16 * Sec. 5. AS 37.13.070(a) is repealed and reenacted to read:

17 (a) The governor may remove a member of the board from office by
18 and with the consent of a majority of the members of the legislature in
19 joint session. A removal by the governor shall be in writing and state
20 the reason for removal. If the legislature is not in session, the
21 governor may suspend a member of the board. Upon suspension, a vacancy
22 is not created but the member of the board may not participate in board
23 business and may not be counted for purposes of establishing a quorum.
24 The joint session of the legislature shall be held within 30 days from
25 the date of removal if the removal occurs while the legislature is in
26 session or within 30 days of convening of the legislature if the legis-
27 lature is not in session. If the legislature refuses to consent to his
28 removal, the member of the board shall be reinstated to his position.

29 * Sec. 6. AS 37.13 is amended by adding a new section to read:

1 Sec. 37.13.075. QUALIFICATIONS OF BOARD MEMBERS. (a) A person
2 may not be appointed to the board unless that person has been a resident
3 of the state for at least three years.

4 (b) A member of the board may not hold any other state or federal
5 office, position or employment, either elective or appointive, except as
6 a member of the armed forces of the United States or of this state.

7 (c) At least one member of the board shall have recognized compe-
8 tence and wide experience in finance, investments, or other business
9 management-related field. Persons who share substantially similar
10 professional or occupational backgrounds may not be appointed to the
11 board to serve at the same time.

12 * Sec. 7. AS 37.13.120 is repealed and reenacted to read:

13 Sec. 37.13.120. POWERS AND DUTIES. (a) The prudent-man rule is
14 applicable to the board in the management and investment of permanent
15 fund assets. The prudent-man rule as applied to investments of the
16 corporation means that in making investments the board shall exercise
17 the judgment and care under the circumstances then prevailing that an
18 institutional investor of ordinary prudence, discretion, and intelligence
19 exercises in the management of large investments entrusted to it not in
20 regard to speculation but in regard to the permanent disposition of
21 funds, considering the probable income from them as well as probable
22 safety of capital.

23 (b) The corporation assets may only be used for income-producing
24 investments.

25 (c) The board shall seek to maintain a reasonable diversification
26 among corporation investments unless under the circumstances it is
27 clearly prudent not to do so.

28 (d) The board shall submit long-range and quarterly investment
29 reports to the Legislative Budget and Audit Committee.

1 (e) The corporation may not borrow funds or guarantee from princi-
2 pal of the fund the obligations of others.

3 (f) The board may enter into and enforce all contracts necessary,
4 convenient, or desirable for purposes of the corporation. It may con-
5 tract with the division of treasury of the Department of Revenue for
6 services.

7 (g) Subject to (a) and (b) of this section, the board may invest
8 corporation assets in obligations of, or obligations insured or guaran-
9 teed by, the United States or agencies or instrumentalities of the
10 United States; corporate securities that under the Securities Act of
11 1933 are freely marketable; and short-term investments that meet the
12 requirements of (a) and (b) of this section except for the term of the
13 investments.

14 (1) The assets of the fund may not be used for the purchase
15 of stock of a corporation that is not paying dividends on that stock in
16 cash at the time of purchase; nor in the purchase of bonds of a corpora-
17 tion, upon which any regular interest payment has been defaulted within
18 five years before purchase, except bonds never in default but which have
19 been outstanding for less than five years.

20 (2) The assets of the corporation may not be used for the
21 purchase of stock if immediately following the purchase the proportionate
22 market value of all stocks held by the corporation would exceed 30
23 percent of the assets of the corporation.

24 (h) Subject to (a) and (b) of this section, the board may invest
25 corporation assets in

- 26 (1) Federal Housing Administration mortgages;
27 (2) Federal Veterans Administration mortgages;
28 (3) conventional residential mortgages if the offering finan-
29 cial institution retains at least 25 percent of the mortgage.

1 (i) To qualify as a mortgage or secured loan that may be purchased
2 by the board under (h) of this section, the mortgage or secured loan
3 shall

4 (1) be secured by real estate in the state;

5 (2) have as a mortgagor an Alaska resident or a corporation
6 in which at least 60 percent of the stock is owned by Alaska residents;

7 (3) be certified by the originating financial institution
8 that the loan being sold has been made in compliance with law and that
9 liens supporting the loan have been perfected;

10 (4) have no initial closing fees or service fees that exceed
11 one-half of one percent, excluding closing costs.

12 (j) The board may purchase loans provided for in (h) of this
13 section only with the approval of each purchase by the Department of
14 Commerce and Economic Development, and the loans may be purchased only
15 from financial institutions that are operating under the national banking
16 laws, federal savings and loan laws, or under the provisions of AS 06.05,
17 AS 06.15, AS 06.25 or AS 06.30.

18 (k) The board shall establish and from time to time as necessary
19 modify guidelines for the investment of the corporation's assets.
20 Before adoption of any investment guidelines, the guidelines shall be
21 reported to the Legislative Budget and Audit Committee for review and
22 comment.

23 (l) Nothing in this section may be interpreted to preclude in-state
24 investments that have a risk level and expected yield comparable to
25 alternative investment opportunities.

26 * Sec. 8. AS 37.13.130 is repealed and reenacted to read:

27 Sec. 37.13.130. GAINS AND LOSSES. At the end of each fiscal year,
28 the total amount of losses on the sales of securities, not offset by
29 gains on the sales of securities during that year, shall be computed,

1 with a portion of these losses to be deducted each fiscal year from the
2 interest and dividend income and the resulting amount of interest and
3 dividend income added to the principal of the fund. Losses taken on the
4 sales of bonds shall be accumulated over a period equal to the average
5 remaining life of the bonds sold, and losses taken on the sales of
6 stocks shall be accumulated within a period of five years, unless these
7 losses are offset by gains on future sales of securities. In any fiscal
8 year in which the gains on the sales of securities exceed the losses on
9 the sales of securities, the excess shall be added to the principal of
10 the fund.

11 * Sec. 9. AS 37.13 is amended by adding a new section to read:

12 Sec. 37.13.145. MORTGAGE LOSS RESERVE ACCOUNT. The board may
13 establish a mortgage loss reserve account for the purpose of protecting
14 the financial integrity of the fund.

15 * Sec. 10. AS 37.13.190 is amended to read:

16 Sec. 37.13.190. POLITICAL ACTIVITIES. The members of the board of
17 trustees and employees of the corporation may not engage in partisan
18 political activities. The resources of the corporation may not be used
19 to finance or influence political activities.
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