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Referred: Labor & Commerce
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR
(for the Permanent Fund
board of trustees)

1 IN THE SENATE

2 SENATE BILL NO. 684

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 investment and management of
7 the Alaska Permanent Fund and to the computation of in-
8 come of the fund which is available for distribution;
9 and providing for an effective date."

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

11 * Section 1. AS 37.13.050 is amended to read:

12 Sec. 37.13.050. COMPOSITION AND QUALIFICATIONS OF BOARD OF TRUST-
13 EES. (a) The Board of Trustees of the Alaska Permanent Fund Corpora-
14 tion consists of six members appointed by the governor. Two [THREE] of
15 the members shall be heads of principal departments of state government,
16 one of whom shall be the commissioner of revenue. Four [THREE] members
17 shall be appointed by the governor from the public and may not hold any
18 other state or federal office, position or employment, either elective
19 or appointive, except as a member of the armed forces of either the
20 United States or of this state. [MEMBERS OTHER THAN THE COMMISSIONER OF
21 REVENUE SHALL BE SEPARATELY CONFIRMED BY A MAJORITY OF THE MEMBERS OF
22 THE LEGISLATURE IN JOINT SESSION.]

23 (b) The four [THREE] public members of the board shall have recog-
24 nized competence and wide experience in finance, investments, or other
25 business management-related fields.

26 (c) The board shall annually elect a chairman from among its mem-
27 bers.

28 * Sec. 2. AS 37.13.060 is amended to read:

29 Sec. 37.13.060. TERM OF OFFICE. The public members of the board

1 shall be appointed for terms of four [THREE] years, and they may be
2 reappointed [SUBJECT TO CONFIRMATION BY A MAJORITY OF THE MEMBERS OF THE
3 LEGISLATURE IN JOINT SESSION]. Public members' terms [TERMS] shall be
4 staggered so that no more than one public member's term expires each
5 year. [INITIAL TERMS FOR MEMBERS OTHER THAN THE COMMISSIONER OF REVENUE
6 SHALL BE TWO MEMBERS SERVING FOR ONE YEAR, TWO MEMBERS SERVING FOR TWO
7 YEARS, AND ONE MEMBER SERVING FOR THREE YEARS.]

8 * Sec. 3. Transition to four-year terms as provided in sec. 2 of this Act
9 shall be implemented as follows: at the expiration of the present term of
10 each public member, the governor shall appoint a replacement, or reappoint
11 the present member, for a term of four years. Within 90 days after the
12 effective date of this Act, the governor shall appoint a public member to
13 replace one of the two present commissioner members other than the commis-
14 sioner of revenue, to serve for a term of four years or less which term
15 expires in a year when no other public member's term expires. The commis-
16 sioner who is to be replaced shall continue to serve on the board until the
17 appointment of a replacement.

18 * Sec. 4. AS 37.13.070 is amended to read:

19 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may for
20 good cause remove a member of the board from office. [HOWEVER, THE
21 REMOVAL OF A MEMBER OF THE BOARD IS SUBJECT TO DISAPPROVAL BY A VOTE OF
22 A MAJORITY OF THE MEMBERS OF THE LEGISLATURE AT THE FIRST JOINT SESSION
23 HELD 10 OR MORE DAYS AFTER THE LEGISLATURE RECEIVES NOTICE OF THE REMOVAL
24 FROM THE GOVERNOR.] A removal by the governor shall be in writing and
25 shall state the reason for the removal. A member who is removed by the
26 governor may not participate in board business and may not be counted
27 for purposes of establishing a quorum after [BETWEEN THE TIME] he re-
28 ceives written notice of his removal from the governor. [AND THE TIME
29 THAT THE LEGISLATURE'S POWER TO DISAPPROVE THE REMOVAL UNDER THIS SUB-

1 SECTION EXPIRES. IF THE LEGISLATURE DISAPPROVES THE REMOVAL OF A BOARD
2 MEMBER, THE BOARD MEMBER SHALL BE REINSTATED.]

3 (b) A vacancy on the board shall be promptly filled by appointment
4 by the governor [AND CONFIRMATION BY A MAJORITY OF THE MEMBERS OF THE
5 LEGISLATURE IN JOINT SESSION]. An appointee to a vacancy shall hold
6 office for the balance of the term for which his predecessor on the
7 board was appointed. [IF A VACANCY ARISES ON THE BOARD WHILE THE LEGIS-
8 LATURE IS NOT IN SESSION, THE GOVERNOR MAY APPOINT AN INTERIM BOARD
9 MEMBER WHO SHALL EXERCISE THE POWERS OF A BOARD MEMBER UNTIL THE LEGIS-
10 LATURE FAILS TO CONFIRM THE APPOINTMENT OF THE INTERIM BOARD MEMBER.]

11 (c) A vacancy on the board does not impair the authority of a
12 quorum of the board to exercise all the powers and perform all the
13 duties of the board.

14 * Sec. 5. AS 37.13.090 is amended to read:

15 Sec. 37.13.090. COMPENSATION OF BOARD MEMBERS. As compensation
16 for performance of their duties, including but not limited to atten-
17 dance at board meetings, public [PUBLIC] members of the board are entit-
18 led to receive an annual fee equal to the salary prescribed for state
19 legislators by AS 24.15.020 [HONORARIUM OF \$400 FOR EACH MEETING DAY IF
20 THEY ATTEND THE MEETING]. The public members' fee shall be paid in
21 equal monthly installments at the end of each month of board service.
22 If the chairman is a public member, he or she is entitled to receive an
23 additional amount equal to the increment prescribed by law for the presi-
24 dent of the senate and the speaker of the house of representatives. All
25 members of the board are entitled to per diem and travel allowances as
26 provided by law for members of state boards and commissions.

27 * Sec. 6. AS 37.13.120(g) is amended to read:

28 (g) Subject to the limitations contained in [(h) AND (i) OF] this
29 section, the board may invest corporation assets at competitive national

1 market rates or prices applicable to each investment in

2 (1) obligations of, or obligations insured by or guaranteed
3 by, the United States or agencies or instrumentalities of the United
4 States;

5 (2) obligations secured by reserves paid in by the United
6 States or agencies or instrumentalities of the United States or obliga-
7 tions of corporations in which the United States is a shareholder or
8 member;

9 (3) certificates of deposit, term deposits, or the equiva-
10 lent, of [ISSUED BY] United States domestic banks which are members of
11 the Federal Deposit Insurance Corporation and [FOR] which may be readily
12 sold in a [GENERALLY RECOGNIZED] secondary market at prices reflecting
13 fair value [EXISTS] or which are fully secured at all times as to pay-
14 ment of principal and interest as [BY INVESTMENTS] described in (m)
15 [(1), (2), (8) OR (12) -- (16)] of this section [SUBSECTION; THE SECURI-
16 TY PLEDGED UNDER THIS PARAGRAPH SHALL BE AT LEAST EQUAL TO THE FACE
17 VALUE OF THE DEPOSIT AND THE BOARD MAY REQUIRE SUBSTITUTION OF COLLATER-
18 AL];

19 (4) certificates of deposit, term deposits, or the equiva-
20 lent, [SHARES] of federally chartered savings and loan [LOANS] associa-
21 tions in Alaska which may be readily sold in a secondary market at prices
22 reflecting fair value or which are fully secured at all times as to pay-
23 ments of principal and interest as [BY INVESTMENTS] described in (m)
24 [(1), (2)] of this section [SUBSECTION];

25 (5) [SAVINGS] certificates of deposit, term deposits, or the
26 equivalent, of [ISSUED BY] state chartered savings and loan associations
27 in Alaska which may be readily sold in a secondary market at prices
28 reflecting fair value or which are fully secured at all times as to
29 payments of principal and interest as [BY INVESTMENTS] described in (m)

1 [(1), (2)] of this section [SUBSECTION];

2 (6) certificates of deposit, term deposits, or the equiva-
3 lent, of [DEPOSITS WITH] mutual savings banks in Alaska which may be
4 readily sold in a secondary market at prices reflecting fair value or
5 which are fully secured at all times as to payments of principal and
6 interest as [BY INVESTMENTS] described in (m) [(1), (2)] of this section
7 [SUBSECTION];

8 (7) fixed-term certificates of indebtedness of federally in-
9 sured credit unions in Alaska which may be readily sold in a market at
10 prices reflecting fair value or which are fully secured at all times as
11 to payments of principal and interest as [BY INVESTMENTS] described in
12 (m) [(1), (2)] of this section [SUBSECTION];

13 (8) corporate debt securities which are rated AA or better by
14 a nationally recognized rating service;

15 (9) short-term corporate promissory notes of the highest
16 ratings assigned by a nationally recognized rating service;

17 (10) bankers' acceptances drawn on and accepted by United
18 States banks each of which have a combined capital and surplus aggregat-
19 ing at least \$200,000,000;

20 (11) repurchase agreements, the securities underlying the
21 agreements being any of the items in (1) -- (3) and (8) -- (10) of this
22 subsection;

23 (12) the guaranteed portion of Federal Small Business Adminis-
24 tration loans;

25 (13) the portion of first lien real estate mortgages guaran-
26 teed by the Federal Veterans' Administration [ASSOCIATION];

27 (14) the portions of business and industrial loans made under
28 the Rural Development Act of 1972 which are guaranteed by the Farmer's
29 Home Administration;

1 (15) the guaranteed portion of Farmer's Home Administration
2 loans;

3 (16) notes secured by mortgages granting a first lien on com-
4 mercial or [OF] residential real estate improved by completed buildings
5 if the mortgages are insured by a private mortgage insurance corporation
6 which is authorized to do business in Alaska and has combined capital,
7 surplus and reserves aggregating at least \$20,000,000, and if loan-to-
8 value ratios do not exceed 75 percent for commercial mortgages and 90
9 percent for residential mortgages; [THE MINIMUM COVERAGE SHALL BE 10
10 PERCENT FOR LOANS HAVING A LOAN-TO-VALUE RATIO OF LESS THAN 90 PERCENT,
11 AND THE MINIMUM COVERAGE SHALL BE 20 PERCENT FOR LOANS HAVING A LOAN-TO-
12 VALUE RATIO OF 90 PERCENT OR MORE.] however,

13 (A) no mortgage insurance is necessary for commercial
14 loans having loan-to-value ratios of less than 50 percent and the
15 minimum coverage of other commercial loans shall be 10 percent for
16 those having a loan-to-value ratio of 50-60 percent and 15 percent
17 for those having a loan-to-value ratio greater than 60 percent but
18 no more than 75 percent, and

19 (B) no mortgage insurance is necessary for residential
20 loans having a loan-to-value ratio of less than 70 percent and the
21 minimum coverage of other residential loans shall be 10 percent for
22 those having a loan-to-value ratio greater than 70 percent but less
23 than 90 percent and 20 percent for those having a loan-to-value
24 ratio of 90 percent;

25 (17) notes secured by mortgages granting a first lien on com-
26 mercial real estate improved by completed buildings if the originating
27 financial institution retains at least 25 percent of the mortgage until
28 maturity;

29 (18) preferred and common stock of corporations incorporated

1 in the United States, on which dividends have been paid in each of the
2 three years immediately preceding the investment;

3 (19) debt securities of foreign governments or corporations
4 and preferred and common stock of foreign corporations which are of sub-
5 stantially equivalent quality as those domestic securities permitted
6 under this section; however, all instruments representing these invest-
7 ments must be held in safekeeping, whether inside or outside the United
8 States, by an entity which is subject to the jurisdiction of the courts
9 of the United States;

10 (20) certificates of deposit, term deposits, bankers' accept-
11 ances, or equivalent instruments, which are issued by a United States
12 or foreign bank or trust company located in a foreign country and are
13 denominated in either United States or foreign currency, if either (A)
14 they may be readily sold in a secondary market at prices reflecting fair
15 value, or (B) the issuing bank or trust company has capital and surplus
16 at the date of issue equalling at least \$500,000,000; however, all
17 instruments representing these investments must be held in safekeeping,
18 whether inside or outside the United States, by an entity which is sub-
19 ject to the jurisdiction of the courts of the United States; investments
20 made under this paragraph are not subject to the collateral requirements
21 for domestic certificates under (m) of this section;

22 (21) equity interests in, and debt obligations secured by
23 mortgages granting a first lien on, real property improved by completed
24 and substantially rented buildings and located in the United States, if
25 these investments are made

26 (A) in a corporation, partnership, trust, or other entity
27 in which, at the conclusion of each investment transaction, at least
28 60 percent of the beneficial ownership interests are held by other
29 institutional investors, and which is organized and operated for the

1 purpose of making real estate investments by a bank, insurance com-
2 pany, or other manager of institutional funds which has had at least
3 five years of experience in the management of real estate invest-
4 ments of institutional investors; or

5 (B) in conjunction with and on substantially the same
6 terms as an entity described in (A) of this paragraph.

7 * Sec. 7. AS 37.13.120(i) is repealed and reenacted to read:

8 (i) At the time of each investment, the aggregate investment of
9 the Alaska permanent fund in each stated category of investment may not
10 exceed the following stated percentage of the total investments of the
11 fund: mortgages, 15 percent; foreign securities, 10 percent; foreign
12 certificates of deposit or the equivalent, 20 percent; corporate stocks
13 and debt securities, 50 percent. The fund may at no time own more than
14 five percent of the voting stock of any corporation. Domestic stocks,
15 except for bank and insurance company stocks, must be listed at the date
16 of purchase on an exchange registered with the Securities and Exchange
17 Commission.

18 * Sec. 8. AS 37.13.120 is amended by adding a new subsection to read:

19 (m) Certificates of deposit or the equivalent instruments which
20 are not of a quality which may be readily sold in a secondary market at
21 prices reflecting fair value must be secured by a pledge as collateral
22 of investments authorized for the permanent fund under (g)(1), (2), (8)
23 or (12) -- (17) of this section, which have value at least equal to the
24 face value of the certificate of deposit. The board may require substi-
25 tion of collateral in order to ensure continued satisfaction of these
26 requirements.

27 * Sec. 9. AS 37.13.130 is repealed.

28 * Sec. 10. AS 37.13.140 is repealed and reenacted to read:

29 Sec. 37.13.140. INCOME. Income shall be computed annually as of

1 the last day of the fiscal year in accordance with generally accepted
2 accounting principles. Net income as adjusted to a cash basis will be
3 the income available for distribution.

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

5 Sec. 37.13.145. REINVESTMENT OF INCOME. An amount equal to 50
6 percent of the income available for distribution under AS 37.13.140
7 shall be transferred to principal for reinvestment.

8 * Sec. 12. AS 37.13.150 is amended to read:

9 Sec. 37.13.150. CORPORATION [BOARD] BUDGET. The revenues genera-
10 ted by the corporation's investments shall be identified as the source
11 of the [THE] operating budget of the corporation in the state's operating
12 budget under [BOARD IS FROM THE GENERAL FUND AND IS SUBJECT TO] the Exe-
13 cutive Budget Act (AS 37.07.010 -- 37.07.130). The unexpended balance
14 of the corporation's annual operating budget does not lapse at the end
15 of the fiscal year but shall be treated as income available for distribu-
16 tion under AS 37.13.140.

17 * Sec. 13. AS 37.13.160 is amended to read:

18 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Commit-
19 tee may [SHALL] provide for an annual post audit and annual operational
20 and performance evaluations of the corporation's investments and invest-
21 ment programs.

22 * Sec. 14. AS 37.13 is amended by adding a new section to read:

23 Sec. 37.13.205. REGULATIONS. The board may adopt regulations
24 under the Administrative Procedure Act (AS 44.62) to interpret and
25 implement this chapter.

26 * Sec. 15. This Act takes effect July 1, 1982.
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