

Original sponsor: Rules/Governor

Offered: 4/23/82
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 684 (Finance)

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 the
8 income of the fund available for distribution; and
9 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
13 TRUSTEES. (a) The Board of Trustees of the Alaska Permanent Fund
14 Corporation consists of six members appointed by the governor. Two
15 [THREE] of the members shall be heads of principal departments of state
16 government, one of whom shall be the commissioner of revenue. Four
17 [THREE] members shall be appointed by the governor from the public and
18 may not hold any other state or federal office, position or employment,
19 either elective or appointive, except as a member of the armed forces of
20 either the United States or of this state. [MEMBERS OTHER THAN THE
21 COMMISSIONER OF REVENUE SHALL BE SEPARATELY CONFIRMED BY A MAJORITY OF
22 THE MEMBERS OF 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
27 members.

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

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

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

8 * Sec. 3. AS 37.13.070 is amended to read:

9 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may
10 for good cause remove a member of the board from office. [HOWEVER, THE
11 REMOVAL OF A MEMBER OF THE BOARD IS SUBJECT TO DISAPPROVAL BY A VOTE OF
12 A MAJORITY OF THE MEMBERS OF THE LEGISLATURE AT THE FIRST JOINT SESSION
13 HELD 10 OR MORE DAYS AFTER THE LEGISLATURE RECEIVES NOTICE OF THE REMOVAL
14 FROM THE GOVERNOR.] A removal by the governor shall be in writing and
15 shall state the reason for the removal. A member who is removed by the
16 governor may not participate in board business and may not be counted
17 for purposes of establishing a quorum after [BETWEEN THE TIME] he re-
18 ceives written notice of his removal from the governor [AND THE TIME
19 THAT THE LEGISLATURE'S POWER TO DISAPPROVE THE REMOVAL UNDER THIS SUB-
20 SECTION EXPIRES. IF THE LEGISLATURE DISAPPROVES THE REMOVAL OF A BOARD
21 MEMBER, THE BOARD MEMBER SHALL BE REINSTATED].

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

1 (c) A vacancy on the board does not impair the authority of a
2 quorum of the board to exercise all the powers and perform all the
3 duties of the board.

4 * Sec. 4. AS 37.13.090 is amended to read:

5 Sec. 37.13.090. COMPENSATION OF BOARD MEMBERS. Public members of
6 the board receive an honorarium of \$400 for each day spent at a meeting
7 of the board or at a meeting of a subcommittee of the board or at a
8 public meeting as a representative of the board. Members [MEETING DAY
9 IF THEY ATTEND THE MEETING. ALL MEMBERS] of the board are entitled to
10 per diem and travel allowances as provided by law for members of state
11 boards and commissions.

12 * Sec. 5. AS 37.13.120(g) is amended to read:

13 (g) Subject to the limitations contained in [(h) AND (i) OF] this
14 section, the board may invest corporation assets at such competitive
15 national market rates or prices as are applicable to each investment
16 only in

17 (1) obligations of, or obligations insured by or guaranteed
18 by, the United States or agencies or instrumentalities of the United
19 States;

20 (2) obligations secured by reserves paid in by the United
21 States or agencies or instrumentalities of the United States or obliga-
22 tions of corporations in which the United States is a shareholder or
23 member;

24 (3) certificates of deposit and term deposits of [ISSUED BY]
25 United States domestic banks which are members of the Federal Deposit
26 Insurance Corporation and [FOR] which may be readily sold in a [GENERALLY
27 RECOGNIZED] secondary market at prices reflecting fair value [EXISTS] or
28 which are fully secured at all times as to payment of principal and
29 interest as [BY INVESTMENTS] described in (m) [(1), (2), (8) OR (12) -

1 (16)] of this section [SUBSECTION; THE SECURITY PLEDGED UNDER THIS PARA-
2 GRAPH SHALL BE AT LEAST EQUAL TO THE FACE VALUE OF THE DEPOSIT AND THE
3 BOARD MAY REQUIRE SUBSTITUTION OF COLLATERAL];

4 (4) certificates of deposit and term deposits [SHARES] of
5 federally chartered savings and loan [LOANS] associations in Alaska
6 which may be readily sold in a secondary market at prices reflecting
7 fair value or which are fully secured at all times as to payments of
8 principal and interest as [BY INVESTMENTS] described in (m) [(1), (2)]
9 of this section [SUBSECTION];

10 (5) [SAVINGS] certificates of deposit and term deposits of
11 [ISSUED BY] state chartered savings and loan associations in Alaska
12 which may be readily sold in a secondary market at prices reflecting
13 fair value or which are fully secured at all times as to payments of
14 principal and interest as [BY INVESTMENTS] described in (m) [(1), (2)]
15 of this section [SUBSECTION];

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

21 (7) fixed-term certificates of indebtedness of federally in-
22 sured credit unions in Alaska which may be readily sold in a secondary
23 market at prices reflecting fair value or which are fully secured at all
24 times as to payments of principal and interest as [BY INVESTMENTS] de-
25 scribed in (m) [(1), (2)] of this section [SUBSECTION];

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

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

1 (10) bankers' acceptances drawn on and accepted by United
2 States banks each of which have a combined capital and surplus aggre-
3 gating at least \$200,000,000;

4 (11) repurchase agreements, the securities underlying the
5 agreements being any of the items in (1) - (3) and (8) - (10) of this
6 subsection;

7 (12) the guaranteed portion of Federal Small Business Adminis-
8 tration loans;

9 (13) the portion of first lien real estate mortgages guaranteed
10 by the Federal Veterans Administration [ASSOCIATION];

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

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

16 (16) notes secured by mortgages granting a first lien on com-
17 mercial or [OF] residential real estate improved by completed buildings
18 if the mortgages are insured by a private mortgage insurance corporation
19 which is authorized to do business in Alaska and has combined capital
20 and [,] surplus [AND RESERVES] aggregating at least \$20,000,000, and if
21 loan-to-value ratios do not exceed 75 percent for commercial mortgages
22 and 90 percent for residential mortgages; however, [THE MINIMUM COVERAGE
23 SHALL BE 10 PERCENT FOR LOANS HAVING A LOAN-TO-VALUE RATIO OF LESS THAN
24 90 PERCENT, AND THE MINIMUM COVERAGE SHALL BE 20 PERCENT FOR LOANS
25 HAVING A LOAN-TO-VALUE RATIO OF 90 PERCENT OR MORE.]

26 (A) no mortgage insurance is necessary for commercial
27 loans having loan-to-value ratios of less than 50 percent and the
28 minimum coverage of other commercial loans shall be 10 percent for
29 those having a loan-to-value ratio of 50 - 60 percent and 15 percent

1 for those having a loan-to-value ratio greater than 60 percent but
2 no more than 75 percent, and

3 (B) no mortgage insurance is necessary for residential
4 loans having a loan-to-value ratio of less than 70 percent and the
5 minimum coverage of other residential loans shall be 10 percent for
6 those having a loan-to-value ratio greater than 70 percent but less
7 than 90 percent and 20 percent for those having a loan-to-value
8 ratio of 90 percent;

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

13 (18) preferred and common stock of corporations incorporated
14 in the United States, on which dividends have been paid in each of the
15 three years immediately preceding the investment;

16 (19) debt securities of foreign governments or corporations,
17 which are denominated in United States currency, and preferred and common
18 stock of foreign corporations which are of substantially equivalent
19 quality as those domestic securities permitted under this section;

20 (20) certificates of deposit, term deposits, or bankers' accep-
21 tances, which are issued by a United States bank or trust company
22 located in a foreign country and are denominated in United States cur-
23 rency, if either (A) they may be readily sold in a secondary market
24 at prices reflecting fair value, or (B) the issuing bank or trust com-
25 pany has capital and surplus at the date of issue equalling at least
26 \$500,000,000; investments made under this paragraph are not subject to
27 the collateral requirements for domestic certificates under (m) of this
28 section;

29 (21) equity interests in, and debt obligations secured by

1 mortgages granting a first lien on, real estate improved by completed
2 and substantially rented buildings and located in the United States, if
3 these investments are made

4 (A) in a corporation, partnership, trust, or other
5 entity in which, at the conclusion of each investment transaction,
6 at least 60 percent of the beneficial ownership interests are held
7 by other institutional investors, and which is organized and oper-
8 ated for the purpose of making real estate investments by a bank,
9 insurance company, or other manager of institutional funds which
10 has had at least five years of experience in the management of real
11 estate investments of institutional investors; or

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

14 * Sec. 6. AS 37.13.120(1) is repealed and reenacted to read:

15 (1) At the time of each investment, the aggregate investment of
16 the Alaska permanent fund in each stated category of investment may not
17 exceed the following stated percentage of the total investments of the
18 fund: mortgages under (g)(16) of this section, 15 percent; real estate
19 investments under (g)(21) of this section, 15 percent; foreign securities
20 under (g)(19) of this section, 10 percent; foreign certificates of
21 deposit or the equivalent under (g)(20) of this section, 20 percent;
22 corporate stocks and debt securities under (g)(8), (9), and (18) of this
23 section, 50 percent. The Alaska permanent fund may at no time own more
24 than five percent of the voting stock of a corporation. Domestic stocks,
25 except for bank and insurance company stocks, must be listed at the date
26 of purchase on an exchange registered with the Securities and Exchange
27 Commission.

28 * Sec. 7. AS 37.13.120 is amended by adding a new subsection to read:

29 (m) Certificates of deposit or the equivalent instruments which

1 are not of a quality that may be readily sold in a secondary market at
2 prices reflecting fair value must be secured by a pledge as collateral
3 of investments authorized for the Alaska permanent fund under (g)(1),
4 (2), (8), or (12) - (17) of this section, which investments have value
5 at least equal to the face value of the certificate of deposit. The
6 board may require substitution of collateral in order to ensure continued
7 satisfaction of the requirements set out in this subsection.

8 * Sec. 8. AS 37.13.140 is repealed and reenacted to read:

9 Sec. 37.13.140. INCOME. Net income of the corporation must be
10 computed annually as of the last day of the fiscal year in accordance
11 with generally accepted accounting principles, excluding any unrealized
12 gains or losses. Income available for distribution equals the average
13 net income of the corporation for the last five fiscal years, including
14 the fiscal year just ended, but may not exceed net income of the corpora-
15 tion for the fiscal year just ended plus the balance in the undistributed
16 income account described in AS 37.13.145.

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

18 Sec. 37.13.145. DISPOSITION OF INCOME. At the end of each fiscal
19 year, an amount equal to 50 percent of net income as defined in AS 37.-
20 13.140, excluding income on the undistributed income account in the
21 Alaska permanent fund, shall be transferred to the principal of the
22 Alaska permanent fund for reinvestment. The other 50 percent of net
23 income as defined in AS 37.13.140 shall be transferred to the undistri-
24 buted income account. Money in the undistributed income account shall be
25 invested in investments authorized under AS 37.13.120. Income from the
26 investment of the undistributed income account shall be treated as an
27 addition to that account.

28 * Sec. 10. AS 37.13.150 is amended to read:

29 Sec. 37.13.150. CORPORATION [BOARD] BUDGET. The revenues genera-

1 ted by the corporation's investments must be identified as the source
2 of the operating budget of the corporation in the state's operating
3 budget under [BOARD IS FROM THE GENERAL FUND AND IS SUBJECT TO] the
4 Executive Budget Act (AS 37.07.010 - 37.07.130). The unexpended bal-
5 ance of the corporation's annual operating budget does not lapse at
6 the end of the fiscal year but shall be treated as income under AS 37.-
7 13.140.

8 * Sec. 11. AS 37.13.160 is amended to read:

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

13 * Sec. 12. AS 37.13 is amended by adding a new section to read:

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

17 * Sec. 13. AS 37.13.130 is repealed.

18 * Sec. 14. Transition to four-year terms for members of the Board of
19 Trustees of the Alaska Permanent Fund Corporation as provided in AS 37.13.060
20 as amended in sec. 2 of this Act shall be implemented as follows: at the
21 expiration of the present term of each public member, the governor shall
22 appoint a replacement, or reappoint the present member, for a term of four
23 years. Within 90 days after the effective date of this Act, the governor
24 shall appoint a public member to replace one of the two present heads of
25 principal departments other than the commissioner of revenue, to serve for a
26 term of four years or less which term expires in a year when no other public
27 member's term expires. The head of a principal department who is to be re-
28 placed shall continue to serve on the board until the appointment of a re-
29 placement.

1 * Sec. 15. TRANSITION. (a) All income earned by the Alaska permanent
2 fund before the effective date of this Act that is not income available for
3 disbursement shall be transferred to the undistributed income account estab-
4 lished in AS 37.13.145 added by sec. 9 of this Act. However, the amount
5 transferred under this section shall be reduced by an amount equal to one-half
6 of the income available for disbursement for fiscal year 1983.

7 (b) The amount equal to the reduction in income under (a) of this
8 section shall be transferred to the general fund.

9 (c) In this section "income available for disbursement" shall be deter-
10 mined as set out in AS 37.13.140 before amendment by this Act.

11 * Sec. 16. This Act takes effect July 1, 1982.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29