

Original sponsor: Rules/Governor

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1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 684 (State Affairs)

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 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
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
18 receives 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. The board shall
6 determine the compensation of the public members of the board subject
7 to approval by the legislature in accordance with AS 37.07. Compensa-
8 tion for public members of the board shall be requested as part of the
9 operating budget of the board (AS 37.13.150). Members [PUBLIC MEMBERS
10 OF THE BOARD RECEIVE AN HONORARIUM OF \$400 FOR EACH MEETING DAY IF THEY
11 ATTEND THE MEETING. ALL MEMBERS] of the board are entitled to per diem
12 and travel allowances as provided by law for members of state boards and
13 commissions.

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

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

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

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

25 (3) certificates of deposit and term deposits of [ISSUED BY]
26 United States domestic banks which are members of the Federal Deposit
27 Insurance Corporation and [FOR] which may be readily sold in a [GENERALLY
28 RECOGNIZED] secondary market at prices reflecting fair value [EXISTS] or
29 which are fully secured at all times as to pay ment of principal and

1 interest as [BY INVESTMENTS] described in (m) [(1), (2), (8) OR (12) -
2 (16)] of this section [SUBSECTION; THE SECURITY PLEDGED UNDER THIS
3 PARAGRAPH SHALL BE AT LEAST EQUAL TO THE FACE VALUE OF THE DEPOSIT AND
4 THE BOARD MAY REQUIRE SUBSTITUTION OF COLLATERAL];

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

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

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

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

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

29 (9) short-term corporate promissory notes of the highest

1 ratings assigned by a nationally recognized rating service;

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

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

8 (12) the guaranteed portion of Federal Small Business Admin-
9 istration loans;

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

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

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

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

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

1 those having a loan-to-value ratio of 50-60 percent and 15 percent
2 for those having a loan-to-value ratio greater than 60 percent but
3 no more than 75 percent, and

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

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

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

17 (19) debt securities of foreign governments or corporations
18 and preferred and common stock of foreign corporations which are of sub-
19 stantially equivalent quality as those domestic securities permitted
20 under this section;

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

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

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

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

15 (22) limited partnership interest in venture capital funds,
16 if these investments are made

17 (A) in a partnership in which, at the conclusion of
18 each investment transaction, at least 60 percent of the beneficial
19 ownership interests are held by other institutional investors and
20 which is organized and operated for the purpose of making venture
21 capital investments by a manager of institutional funds who has
22 had at least five years of experience in the management of venture
23 capital investments of institutional investors; and

24 (B) in a partnership that agrees to make venture capital
25 investments in the state equal to the investment of the Alaska
26 permanent fund in the partnership to the extent that in-state in-
27 vestments that have a risk level and expected yield comparable to
28 alternate investment opportunities are available.

29 (23) obligations issued by an agency of the state if the

1 obligations and the interest on them are taxable under federal law.

2 * Sec. 6. AS 37.13.120(i) is repealed and reenacted to read:

3 (i) At the time of each investment, the aggregate investment of
4 the Alaska permanent fund in each stated category of investment may not
5 exceed the following stated percentage of the total investments of the
6 fund: mortgages under (g)(16) of this section, 15 percent; real estate
7 investments under (g)(21) of this section, 15 percent; venture capital
8 limited partnerships under (g)(22) of this section, 15 percent; foreign
9 securities under (g)(19) of this section, 10 percent; foreign certifi-
10 cates of deposit or the equivalent under (g)(20) of this section, 20
11 percent; corporate stocks and debt securities under (g)(8), (9), and
12 (18) of this section, 50 percent. The Alaska permanent fund may at no
13 time own more than five percent of the voting stock of a corporation.
14 Domestic stocks, except for bank and insurance company stocks, must be
15 listed at the date of purchase on an exchange registered with the
16 Securities and Exchange Commission.

17 * Sec. 7. AS 37.13.120 is amended by adding new subsections to read:

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

26 (n) Certificates of deposit or the equivalent instruments may not
27 be purchased from a bank doing business in Alaska unless the in-state
28 loan-to-deposit ratio of that bank as determined by the division of
29 banking of the Department of Commerce and Economic Development for the

1 last full quarter preceding the purchase is not more than five percent
2 less than the in-state loan-to-deposit average ratio for all banks doing
3 business in Alaska for that quarter.

4 (o) Certificates of deposits or the equivalent instrument may not
5 be purchased from a bank doing business in Alaska if state and state
6 agency deposits in the bank are in excess of 400 percent of the bank's
7 combined capital and surplus.

8 * Sec. 8. AS 37.13 is amended by adding a new section to read:

9 Sec. 37.13.145. DISPOSITION OF INCOME. At the end of each fiscal
10 year, an amount equal to 50 percent of net income as defined in AS 37.-
11 13.140, excluding any income on the undistributed income account in the
12 Alaska permanent fund, shall be transferred to principal of the fund for
13 reinvestment. The other 50 percent of the net income shall be trans-
14 ferred to the undistributed income account. Money in the undistributed
15 income account shall be invested in investments authorized under AS 37.-
16 13.120. Income from the investment of the undistributed income account
17 shall be treated as an addition to that account.

18 * Sec. 9. AS 37.13.150 is amended to read:

19 Sec. 37.13.150. CORPORATION [BOARD] BUDGET. The revenues genera-
20 ted by the corporation's investments must be identified as the source
21 of the operating budget of the corporation in the state's operating
22 budget under [BOARD IS FROM THE GENERAL FUND AND IS SUBJECT TO] the
23 Executive Budget Act (AS 37.07.010 - 37.07.130). The unexpended bal-
24 ance of the corporation's annual operating budget does not lapse at
25 the end of the fiscal year but shall be treated as income under AS 37.
26 13.140.

27 * Sec. 10. AS 37.13.160 is amended to read:

28 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Commit-
29 tee may [SHALL] provide for an annual post audit and annual operational

1 and performance evaluations of the corporation's investments and invest-
2 ment programs.

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

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

7 * Sec. 12. Transition to four-year terms for members of the Board of
8 Trustees of the Alaska Permanent Fund Corporation as provided in AS 37.13.060
9 as amended in sec. 2 of this Act shall be implemented as follows: at the
10 expiration of the present term of each public member, the governor shall
11 appoint a replacement, or reappoint the present member, for a term of four
12 years. Within 90 days after the effective date of this Act, the governor
13 shall appoint a public member to replace one of the two present heads of
14 principal departments other than the commissioner of revenue, to serve for a
15 term of four years or less which term expires in a year when no other public
16 member's term expires. The head of a principal department who is to be
17 replaced shall continue to serve on the board until the appointment of a
18 replacement.

19 * Sec. 13. This Act takes effect July 1, 1982.
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