

SENATE BILL NO. 374

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/29/92
Referred: CRA, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to investment pools for public entities; and providing for an effective
2 date."

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

4 * **Section 1. PURPOSE.** The purpose of this Act is to provide a means for certain public entities to
5 secure the maximum investment return consistent with the preservation of capital and liquidity by
6 pooling public money temporarily available for investment. The Act would allow (1) for the
7 establishment of centralized investment through pooling of certain available money by participating
8 public entities; and (2) for the establishment of operational and investment criteria for investment pools
9 in order to attain the maximum investment return for the public entities' money consistent with the
10 preservation of capital and liquidity.

11 * **Sec. 2.** AS 14.08.101 is amended to read:

12 **Sec. 14.08.101. POWERS.** A regional school board may

13 (1) sue and be sued;

14 (2) contract with the department, the Bureau of Indian Affairs, or any other school

1 district, agency, or regional board for the provision of services, facilities, supplies or utilities;

2 (3) determine its own fiscal procedures including but not limited to policies and
3 procedures for the purchase of supplies and equipment; the regional school boards are exempt
4 from AS 37.05 (Fiscal Procedures Act) and AS 36.30 (State Procurement Code);

5 (4) appoint, compensate and otherwise control all school employees in accordance
6 with this title; these employees are not subject to AS 39.25 (State Personnel Act);

7 (5) adopt regulations governing organization, policies and procedures for the
8 operation of the schools;

9 (6) establish, maintain, operate, discontinue and combine schools subject to the
10 approval of the commissioner;

11 (7) recommend to the department projects for construction, rehabilitation, and
12 improvement of schools and education-related facilities as specified in AS 14.11.011(b), and plan,
13 design, and construct the project when the responsibility for it is assumed under AS 14.11.020;

14 (8) by resolution adopted by a majority of all the members of the board and
15 provided to the commissioner of the department, assume ownership of all land and buildings used
16 in relation to the schools in the regional educational attendance area;

17 (9) provide housing for rental to teachers, by leasing existing housing from a local
18 agency or individual, or by entering into contractual arrangements with a local agency or
19 individual to lease housing that will be constructed by the local agency or individual for that
20 purpose;

21 (10) exercise those other functions that may be necessary for the proper
22 performance of its responsibilities;

23 **(11) with the approval of the commissioner, participate in an investment pool**
24 **established under AS 37.23.**

25 * Sec. 3. AS 29.35 is amended by adding a new section to read:

26 Sec. 29.35.015. INVESTMENT POOLS. A municipality may invest money in
27 investment pools for public entities as authorized under AS 37.23 only if that municipality has
28 obtained the consent of its governing body through an ordinance authorizing the participation.

29 * Sec. 4. AS 37 is amended by adding new chapter to read:

30 CHAPTER 23. INVESTMENT POOLS FOR PUBLIC ENTITIES.

31 Sec. 37.23.010. INVESTMENT POOL PARTICIPATION. (a) A public entity may enter

1 into an agreement with other public entities to form and manage an investment pool using public
2 money temporarily available for investment. Any such agreement entered into is subject to this
3 chapter.

4 (b) A public entity, by itself or with other public entities, may form a nonprofit
5 corporation for the purpose of managing an investment pool established under (a) of this section.

6 (c) A public entity participating in an investment pool under this chapter, including any
7 nonprofit corporation formed under (b) of this section, may spend money reasonably necessary
8 as determined by the public entity for the management of the investment pool, including the
9 employment of any necessary staff.

10 (d) The money to pay for management of the investment pool under (c) of this section
11 may be paid from the earnings from an investment pool's portfolio of authorized investments
12 under AS 37.23.020.

13 Sec. 37.23.020. AUTHORIZED INVESTMENTS. An investment pool may invest only
14 in securities that have a final maturity date within 13 months after the date of purchase.
15 Authorized securities for investment under this section are only the following types of
16 instruments:

17 (1) obligations of the United States and of any agency or instrumentality of the
18 United States;

19 (2) repurchase and reverse repurchase agreements secured by the Treasury of the
20 United States and obligations of any agency or instrumentality of the United States;

21 (3) certificates of deposit, bankers acceptances, and other similar obligations of
22 a bank domiciled in the United States which has (A) outstanding debt rated A or higher by at
23 least one of the nationally recognized rating services, and (B) a combined capital and surplus
24 aggregating at least \$500,000,000;

25 (4) commercial paper and other short-term taxable instruments that maintain the
26 highest rating by at least two nationally recognized rating services at the time of investment;

27 (5) obligations of a corporation domiciled in the United States or obligations of
28 a municipality which are taxable under federal law, if the obligations are rated A or higher by
29 at least two nationally recognized rating services at the time of investment;

30 (6) certificates of deposit that are issued by an Alaska financial institution,
31 regardless of whether the financial institution meets the requirements of (3) of this section;

1 (7) money market funds in which the securities of the fund consist of obligations
2 listed in this section and otherwise meet the requirements of this chapter;

3 (8) other cash equivalent investments with a maturity date of one year or less after
4 date of the investment which are of similar quality to (1) - (7) of this section, are rated A or
5 higher by at least one of the nationally recognized rating services, and are approved by the public
6 entities participating in that investment pool.

7 Sec. 37.23.030. COLLATERALIZATION. (a) Investment under AS 37.23.020(6) in
8 certificates of deposit issued by an Alaska financial institution, and the entire amount of principal
9 and interest payable upon maturity of such certificates, must be collateralized by a combination
10 of the types of securities listed in (b) of this section. The combination of securities must have
11 at least the market values listed in (b) of this section, which are marked to market no less
12 frequently than monthly and have maturity dates not exceeding five years.

13 (b) The market values for eligible securities under (a) of this section by collateral type
14 are as follows:

15 (1) for obligations of the United States with a maturity date of five years or less
16 after the date of the investment pool's investment transaction, at least 102 percent;

17 (2) for securities in United States agencies or instrumentalities which are actively
18 traded, except for mortgage pass-through securities with a

19 (A) maturity date of one year or less after the date of the investment
20 pool's investment transaction, at least 103 percent;

21 (B) maturity date of more than one year and less than five years after the
22 date of the investment pool's investment transaction, at least 107 percent;

23 (3) for mortgage pass-through securities issued by Government National Mortgage
24 Association, at least 120 percent;

25 (4) for obligations of the State of Alaska or its political subdivisions secured by
26 the full faith, credit, and taxing power of the state or its political subdivisions and rated A or
27 higher by at least one of the nationally recognized rating services with a

28 (A) maturity date of one year or less after the date of the investment
29 pool's investment transaction, at least 102 percent;

30 (B) maturity date of more than one and less than five years after the date
31 of the investment pool's investment transaction, at least 107 percent.

1 Sec. 37.23.040. PORTFOLIO RESTRICTIONS. An investment portfolio of an
2 investment pool established under this chapter may not contain the following:

3 (1) more than five percent of investments in securities of one issuer unless the
4 securities are an obligation of or guaranteed by the United States;

5 (2) more than 30 percent of investments in securities of companies whose
6 principal business is in the same industry; and

7 (3) transactions in futures, options, derivative securities, and short sales.

8 Sec. 37.23.050. INVESTMENT MANAGEMENT. The public entities participating in
9 an investment pool established under this chapter shall provide for management of investments
10 in the investment pool by contracting for investment management and related services with

11 (1) an investment adviser registered under 15 U.S.C. 80b-1 - 80b-2 (Investment
12 Advisers Act of 1940);

13 (2) the Alaska Department of Revenue; or

14 (3) an Alaska financial institution having trust powers under state or federal law.

15 Sec. 37.23.060. INVESTMENT RESPONSIBILITIES. The prudent-expert rule shall be
16 applied in the management and investment of assets by investment pools formed under this
17 chapter. The prudent-expert rule means the exercise of judgment and care and discharge of all
18 duties by the investment manager with respect to the management of the investment pool with
19 the care, skill, prudence, and diligence under the circumstances then prevailing that an
20 institutional investor would use in the conduct of an enterprise of a like character and with like
21 aims.

22 Sec. 37.23.070. REPORTS; DISCLOSURE STATEMENT. (a) The manager of an
23 investment pool shall provide to the public entities participating in the investment pool

24 (1) a monthly report on the allocation of income of investments of the investment
25 pool, and

26 (2) a monthly report on the activities of the investment pool.

27 (b) At least annually, the manager of an investment pool shall provide a disclosure
28 statement on the management and operation of the investment pool to each public entity
29 participating in the pool. The disclosure statement must include a copy of the annual audit
30 required under AS 37.23.080.

31 (c) If a public entity that receives a report under (a) of this section or the disclosure

1 statement under (b) of this section is an organization composed of political subdivisions of the
2 state, that public entity shall promptly provide the report or statement to its members.

3 (d) The manager of an investment pool shall provide to a prospective participant in the
4 investment pool copies of monthly reports, prepared under (a) of this section, for the relevant
5 year, and a copy of the most recent disclosure statement prepared under (b) of this section.

6 Sec. 37.23.080. ANNUAL AUDIT. By each September 30, the manager of an
7 investment pool shall submit, to the public entities participating in that investment pool, an audit,
8 as of June 30 of that year, of the pool's investments. The audit must be performed by a certified
9 public accountant licensed under AS 08.04 who is not

10 (1) an employee of any of the public entities participating in the investment pool
11 being audited; or

12 (2) a contractor or an employee of a contractor who performed investment
13 services under AS 37.23.050 for the investment pool being audited.

14 Sec. 37.23.090. LIMITATION OF LIABILITY. The State of Alaska, except when
15 providing investment management and related services under AS 37.23.050(2), and participating
16 public entities are not liable for any acts of or omissions of any investment manager with whom
17 the participating entities in an investment pool have contracted for investment management and
18 related services under AS 37.23.050.

19 Sec. 37.23.900. DEFINITIONS. For purposes of this chapter,

20 (1) "Alaska financial institution" means a state or federally chartered commercial
21 or mutual bank, savings and loan association or credit union having its principal office in Alaska
22 and having insurance of accounts through the appropriate federal insuring agency of the United
23 States;

24 (2) "public entity" means a political subdivision of the state, including a
25 municipality and its subdivisions, a school district, a regional education attendance area, or an
26 organization composed of political subdivisions of the state.

27 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).