

CS FOR SENATE BILL NO. 374 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/11/92
Referred: Rules

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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 money temporarily available for investment. The Act allows for the establishment of

7 (1) centralized investment through pooling of certain available money by participating
8 public entities; and

9 (2) operational and investment criteria for investment pools in order to attain the
10 maximum investment return for the public entities' money consistent with the preservation of capital and
11 liquidity.

12 * Sec. 2. AS 29.35 is amended by adding a new section to read:

13 Sec. 29.35.015. INVESTMENT POOLS. A municipality may invest money in
14 investment pools for public entities as authorized under AS 37.23 only if that municipality has

1 obtained the consent of its governing body through an ordinance authorizing the participation.

2 * Sec. 3. AS 37 is amended by adding a new chapter to read:

3 CHAPTER 23. INVESTMENT POOLS FOR PUBLIC ENTITIES.

4 Sec. 37.23.010. INVESTMENT POOL PARTICIPATION. (a) Subject to this chapter,
5 a public entity may enter into an agreement with other public entities to form and manage an
6 investment pool under which funds of the participating public entities are administered and
7 invested jointly. A public entity, by itself or with other public entities, may form a nonprofit
8 corporation for the purpose of managing an investment pool.

9 (b) A public entity participating in an investment pool or a nonprofit corporation formed
10 under (a) of this section may spend money reasonably necessary for the management of the pool,
11 including the employment of staff. Income from investments of the pool may be used for
12 management costs.

13 (c) The registration requirements of AS 45.55 do not apply to an investment pool formed
14 under this chapter or to participating public entities with respect to activities of the pool.

15 Sec. 37.23.020. AUTHORIZED INVESTMENTS. An investment pool may invest only
16 in securities that have a final maturity date within 13 months after the date of purchase.
17 Investments may only include

18 (1) obligations of the United States and of an agency or instrumentality of the
19 United States;

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

22 (3) certificates of deposit, bankers acceptances, and other similar obligations of
23 a bank domiciled in the United States that has

24 (A) outstanding debt rated A or higher by at least one of the nationally
25 recognized rating services; and

26 (B) a combined capital and surplus aggregating at least \$500,000,000;

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

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

1 (6) certificates of deposit that are issued by a state or federally chartered financial
2 institution that is a commercial or mutual bank, savings and loan association, or credit union, if
3 the institution's principal office is in the state, and if the institution's accounts are insured
4 through the appropriate federal insuring agency of the United States, regardless of whether the
5 institution meets the requirements of (3) of this section;

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

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

12 Sec. 37.23.030. COLLATERALIZATION. Investment in certificates of deposit under
13 AS 37.23.020(6) and the entire amount of principal and interest payable upon maturity of the
14 certificates must be collateralized by a combination of securities that are marked to market at
15 least monthly and have maturity dates that do not exceed five years. Only the following
16 securities may serve as collateral:

17 (1) obligations of the United States with a maturity date of five years or less after
18 the date of the pool's investment transaction, and with a market value of at least 102 percent;

19 (2) securities in United States agencies or instrumentalities that are actively traded,
20 other than mortgage pass-through securities, with a maturity date of

21 (A) one year or less after the date of the pool's investment transaction, and
22 with a market value of at least 103 percent;

23 (B) of more than one year and less than five years after the date of the
24 pool's investment transaction, and with a market value of at least 107 percent;

25 (3) mortgage pass-through securities issued by the Government National Mortgage
26 Association with a market value of at least 120 percent;

27 (4) obligations of the state or its political subdivisions secured by the full faith,
28 credit, and taxing power of the state or its political subdivisions, rated A or higher by at least one
29 of the nationally recognized rating services, with a maturity date of

30 (A) one year or less after the date of the pool's investment transaction, and
31 with a market value of at least 102 percent;

1 (B) more than one and less than five years after the date of the pool's
2 investment transaction, and with a market value of at least 107 percent.

3 Sec. 37.23.040. PORTFOLIO RESTRICTIONS. The portfolio of an investment pool
4 under this chapter may not contain

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

7 (2) more than 30 percent of total investments in securities of companies whose
8 principal business is in the same industry; or

9 (3) transactions in futures, options, derivative securities, or short sales.

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

13 (1) a securities broker-dealer registered under AS 45.55.030 and under 15 U.S.C.
14 78o (Securities Exchange Act of 1934) if the broker-dealer is employed by a company with a
15 permanently staffed office located in the state;

16 (2) an investment adviser registered under AS 45.55.030 and under 15 U.S.C.
17 80b-3 (Investment Advisers Act of 1940);

18 (3) the Department of Revenue; or

19 (4) a financial institution that is a state or federally chartered commercial or
20 mutual bank, savings and loan association, or credit union, if the institution's principal office is
21 in the state, if the institutions's accounts are insured through the appropriate federal insuring
22 agency of the United States, and if the institution has trust powers under state or federal law.

23 Sec. 37.23.060. INVESTMENT RESPONSIBILITIES. The management and investment
24 of assets by investment pools shall be done with the care, skill, prudence, and diligence under
25 the circumstances then prevailing that an institutional investor would use in the conduct of an
26 enterprise of a like character and with like aims.

27 Sec. 37.23.070. REPORTS; DISCLOSURE STATEMENT. (a) The manager of an
28 investment pool shall provide to the participating public entities a monthly report on the
29 allocation of income of investments of the pool and describing activities of the pool. At least
30 annually, the manager of an investment pool shall provide a disclosure statement on the
31 management and operation of the pool to each public entity participating in the pool. The

1 disclosure statement must include a copy of the annual audit required under AS 37.23.080.

2 (b) A public entity participating in an investment pool that is an organization composed
3 of political subdivisions of the state shall promptly provide a copy of each report or statement
4 received under (a) of this section to its members who are participating in the investment pool.

5 (c) The manager of an investment pool shall provide to a prospective participant in the
6 pool copies of monthly reports prepared under (a) of this section for the past year, and a copy
7 of the most recent disclosure statement prepared under (a) of this section.

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

12 (1) an employee of a public entity participating in the investment pool; or

13 (2) a contractor or an employee of a contractor who performed investment
14 services for the investment pool.

15 Sec. 37.23.090. LIMITATION OF LIABILITY. The state, except when providing
16 investment management and related services under AS 37.23.050(3), and participating public
17 entities are not liable for any acts or omissions of an investment manager with whom the
18 participating entities have contracted for investment management and related services under
19 AS 37.23.050.

20 Sec. 37.23.900. DEFINITION. For purposes of this chapter, "public entity" means a
21 political subdivision of the state, including a municipality and its subdivisions, a school district,
22 a regional educational attendance area, or an organization composed of political subdivisions of
23 the state.

24 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).