

HOUSE BILL NO. 494

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE MACLEAN

Introduced: 2/14/94

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act changing the Alaska State Pension Investment Board to the Alaska  
2 Pension Investment Authority and relating to the authority; and providing for an  
3 effective date."

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

5 \* Section 1. AS 37.10.071(f) is amended to read:

6 (f) In this section, "fiduciary of a state fund" or "fiduciary" means

7 (1) the commissioner of revenue for investments under AS 37.10.070;

8 (2) with respect to the Alaska Pension Investment Authority [STATE

9 PENSION INVESTMENT BOARD], for investments under AS 14.25.180,

10 (A) each trustee who serves on the authority; [BOARD OF  
11 TRUSTEES; AND]

12 (B) each officer of the authority;

13 (C) any other person who exercises control or authority with  
14 respect to management or disposition of assets for which the authority

1 [BOARD] is responsible or who gives investment advice to the authority  
2 [BOARD]; or

3 (3) for investments not subject to AS 14.25.180 or AS 37.10.070, the  
4 person or body provided by law to manage the investments [FOR INVESTMENTS  
5 NOT SUBJECT TO AS 14.25.180 OR AS 37.10.070].

6 \* Sec. 2. AS 37.10.210(a) is repealed and reenacted to read:

7 (a) The Alaska Pension Investment Authority is established as a public  
8 corporation and government instrumentality in the Department of Revenue. The  
9 authority has a legal existence independent of and separate from the state. The  
10 purpose of the authority is to have custody of and provide prudent and productive  
11 management and investment of state pension funds and, if the authority secures the  
12 agreement of the commissioner of the department or the fiduciary responsible for  
13 another fund, of other state funds.

14 \* Sec. 3. AS 37.10.220(a) is amended to read:

15 (a) The trustees of the authority [BOARD] shall

16 (1) hold regular and special meetings at the call of the chair or of at  
17 least four members;

18 (2) establish investment policies for the funds for which the authority  
19 [IT] is responsible after reviewing recommendations from the investment advisory  
20 council, the executive director, and the Department of Revenue;

21 (3) submit long-range and quarterly investment reports to the  
22 Legislative Budget and Audit Committee;

23 (4) report to the governor, the legislature, and employers participating  
24 in the retirement systems by the first day of each regular legislative session concerning  
25 the investment of funds for which the authority [BOARD] is responsible, including  
26 financial and investment policies established by the authority [BOARD], and enclose  
27 a summary of the most recent performance evaluations of the funds managed by the  
28 authority [BOARD];

29 (5) contract with external performance evaluators to review the  
30 performance of each fund for which the authority [BOARD] is responsible and report  
31 each year on the fund's condition to the authority [BOARD OF TRUSTEES] and to

1 the other appropriate boards;

2 (6) engage independent certified public accountants to perform an  
3 annual audit of each of the funds for which the authority [BOARD] is responsible and  
4 to report to the authority [BOARD] with the results of the audit;

5 (7) review the actuarial earnings assumption for each fund for which  
6 the authority [BOARD] is responsible every two years and report its findings and  
7 recommendations to the appropriate board or agency;

8 (8) after reviewing the recommendations from the executive director,  
9 other staff members, [DEPARTMENT OF REVENUE] and the advisory council,  
10 select and retain the external investment managers and custodians for the funds  
11 managed by the authority [BOARD];

12 (9) develop an annual operating budget plan and present it to the  
13 Department of Revenue, the office of management and budget, and the legislature.

14 \* Sec. 4. AS 37.10.220(d) is amended to read:

15 (d) The chair of the trustees [BOARD] shall appoint the executive director  
16 or a trustee to present the authority's [BOARD'S] position to legislative committees  
17 when the committees are considering the authority's [BOARD'S] operating budget.  
18 The authority [BOARD] is otherwise subject to AS 37.07 as provided in  
19 AS 37.10.265.

20 \* Sec. 5. AS 37.10.230 is amended to read:

21 Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees, the executive  
22 director, and the investment officers of the authority are subject to the provisions  
23 of AS 39.50.

24 (b) If a trustee or the executive director or an investment officer of the  
25 authority acquires, owns, or controls an interest, direct or indirect, in an entity or  
26 project in which assets under the control of the authority [BOARD] are invested, the  
27 trustee or officer shall immediately disclose the interest to the authority [BOARD].  
28 The disclosure is a matter of public record and shall be included in the minutes of the  
29 authority's [BOARD] meeting next following the disclosure.

30 (c) The authority [BOARD] shall adopt regulations to restrict trustees,  
31 officers, and other employees from having a substantial interest in an entity or project

1 in which assets under the control of the authority [BOARD] are invested.

2 \* Sec. 6. AS 37.10.230 is amended by adding new subsections to read:

3 (d) The executive director may designate additional officers and employees of  
4 the authority who are subject to the provisions of AS 39.50 because of their  
5 responsibility for participating in the management or investment of the funds for which  
6 the authority is responsible. If an officer or employee of the authority designated  
7 under this subsection acquires, owns, or controls an interest, direct or indirect, in an  
8 entity or project in which assets under the control of the authority are invested, the  
9 officer or employee shall immediately disclose the interest to the trustees as required  
10 by (b) of this section.

11 (e) Failure to comply with the requirements of this section or regulations  
12 adopted under this section is grounds for termination of employment.

13 \* Sec. 7. AS 37.10.260 is repealed and reenacted to read:

14 Sec. 37.10.260. STAFF. The authority may employ and determine the salary  
15 of an executive director. The executive director may, with the approval of the trustees,  
16 select and employ additional staff as necessary. An employee of the authority,  
17 including the executive director, may not be a trustee of the authority. The executive  
18 director and other employees of the authority are in the exempt service under  
19 AS 39.25.110.

20 \* Sec. 8. AS 37.10 is amended by adding a new section to read:

21 Sec. 37.10.265. BUDGET OF THE AUTHORITY. Funds under the control  
22 of the authority may be identified as the source of the operating budget of the authority  
23 in the state's operating budget under AS 37.07 (Executive Budget Act).

24 \* Sec. 9. AS 37.10.280 is amended to read:

25 Sec. 37.10.280. INSURANCE. The authority [BOARD] shall ensure that  
26 trusted assets and [ITS OWN] services of the trustees, officers, employees, and  
27 agents of the authority are protected. At the direction of the trustees, the authority  
28 [THE BOARD] may purchase insurance or provide for self-insurance retention in  
29 amounts recommended by the executive director [COMMISSIONER OF REVENUE]  
30 and approved by the trustees [BOARD] to cover the acts, including fiduciary acts,  
31 errors, and omissions of trustees, officers, employees, [ITS BOARD MEMBERS] and

1 agents of the authority. Insurance must protect the authority [BOARD] and the state  
2 from liability to others and from loss of trusteed assets due to the acts or omissions  
3 of the trustees, officers, employees, and agents of the authority.

4 \* Sec. 10. AS 37.10.290 is amended to read:

5 Sec. 37.10.290. EXEMPTION FROM TAXATION. Except as provided in  
6 AS 29.45.030(a) for property acquired through foreclosure or deed in lieu of  
7 foreclosure, the authority, funds managed by the authority, [BOARD] and all  
8 properties at any time owned by the authority [IT], managed by it, or held by it in  
9 trust, and the income from those activities or funds, are exempt from all taxes and  
10 assessments in the state. All security instruments issued by the authority [BOARD]  
11 and income from them are exempt from all taxes and assessments in the state,  
12 including transfer taxes.

13 \* Sec. 11. AS 37.10.300 is amended to read:

14 Sec. 37.10.300. LIMITATIONS. The authority [BOARD] may not engage  
15 in commercial banking activity or private trust activity. The authority [BOARD] may  
16 not act as a depository or trustee for a private person, association, or corporation. The  
17 authority [BOARD] may not act as a lender to a private person, association, or  
18 corporation of money from any source except state funds under control of  
19 [MANAGEMENT BY] the authority [BOARD].

20 \* Sec. 12. AS 37.10.390(1) is repealed and reenacted to read:

21 (1) "authority" means the Alaska Pension Investment Authority;

22 \* Sec. 13. AS 39.25.110(11) is amended to read:

23 (11) the officers and employees of the following boards, commissions,  
24 and authorities:

- 25 (A) Alaska Gas Pipeline Financing Authority;  
26 (B) Alaska Permanent Fund Corporation;  
27 (C) Alaska Industrial Development and Export Authority;  
28 (D) Alaska Commercial Fisheries Entry Commission;  
29 (E) Alaska Commission on Postsecondary Education;  
30 (F) Alaska Aerospace Development Corporation;  
31 (G) Alaska Pension Investment Authority;

1 \* **Sec. 14. AS 44.25.020 is amended to read:**

2 **Sec. 44.25.020. DUTIES OF DEPARTMENT.** The Department of Revenue  
3 shall

4 (1) enforce the tax laws of the state;

5 (2) collect, account for, have custody of, invest, and manage all state  
6 funds and all revenues of the state except revenues incidental to a program of licensing  
7 and regulation carried on by another state department and funds managed and invested  
8 by the Alaska Pension Investment Authority [STATE PENSION INVESTMENT  
9 BOARD];

10 (3) register cattle brands;

11 (4) supply necessary clerical and administrative services for the  
12 Alcoholic Beverage Control Board;

13 (5) invest and manage the balance of the power development fund in  
14 accordance with AS 44.83.386;

15 (6) in accordance with the policies established by the [BOARD OF]  
16 trustees of the Alaska Pension Investment Authority [STATE PENSION  
17 INVESTMENT BOARD], collect and [,] account for [, HAVE CUSTODY OF,  
18 INVEST, AND MANAGE] the state funds for which the authority [BOARD] is  
19 responsible;

20 (7) administer the surety bond program for licensure as a fish processor  
21 or primary fish buyer.

22 \* **Sec. 15. AS 44.25.028 is repealed.**

23 \* **Sec. 16. IMPLEMENTING NAME CHANGE.** To be consistent with the name change  
24 made by this Act, wherever in the Alaska Statutes, and in regulations adopted under those  
25 statutes, "Alaska State Pension Investment Board" or "board" are used, they shall be read as  
26 referring to the "Alaska Pension Investment Authority" or "authority," as appropriate. Under  
27 AS 01.05.031, the revisor of statutes shall implement this section in the statutes, and, under  
28 AS 44.62.125(b)(6), the regulations attorney shall implement this section in the administrative  
29 regulations.

30 \* **Sec. 17. TRANSITIONAL PROVISION CONCERNING BOARD MEMBERS.** The  
31 trustees of the Alaska State Pension Investment Board on June 30, 1994, shall become the

1 trustees of the Alaska Pension Investment Authority on July 1, 1994.

2 \* Sec. 18. TRANSITIONAL PROVISIONS RELATING TO CREATION OF THE  
3 AUTHORITY. All litigation, hearings, investigations, and other proceedings pending under  
4 a law amended or repealed by this Act, or in connection with functions transferred by this Act,  
5 continue in effect and may be continued and completed notwithstanding a transfer,  
6 amendment, or repeal provided for in this Act. Orders and regulations issued or adopted  
7 under authority of a law amended or repealed by this Act remain in effect for the term issued,  
8 or until revoked, vacated, or otherwise modified under the provisions of this Act. All  
9 contracts, rights, liabilities, and obligations created by or under a law amended or repealed by  
10 this Act, and in effect on July 1, 1994, remain in effect notwithstanding this Act's taking  
11 effect. Records, equipment, and other property of agencies of the state whose functions are  
12 transferred under this Act shall be transferred commensurate with the provisions of this Act.

13 \* Sec. 19. This Act takes effect July 1, 1994.