

HB

50

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER HB 50

SPONSOR Boucher

BILL TITLE Commission on future of Permanent Fund

DATE REFERRED 4-21-89

HEARING SCHEDULED 5-1-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED Marco 4931

INTERESTED PARTIES CONTACTED

✓ Jim Kelly, PF 2047

Jack Fargnoli, OMB

OTHER

SENATE COMMITTEE REPORT



FURTHER

FIN

4/21/89

DATE TURNED INTO OFFICE 5-1-89

Mr. President:

STATE AFFAIRS Committee considered HB 50 (efd add)

establishing the Commission on the Future of the Permanent Fund and providing for public testimony on the use that should be made of the income of the permanent fund; efd and recommended

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

Al Adams

OTHER RECOMMENDATIONS

James Smith No Rec

[Signature]

Chairman signature and recommendation

Committee Backup attached



Representative H.A. "Red" Boucher

Chairman House Committee on State Affairs • Special Committee on Telecommunications

MEMORANDUM

DATE: April 25, 1989

TO: Senator Pat Pourchot
Chairman
State Affairs Committee

FROM: Representative H.A. "Red" Boucher
Chairman
House State Affairs Committee

SUBJECT: House Bill 50

Thank you for scheduling HB 50 for a hearing in the Senate State Affairs Committee.

HB 50, establishing the Commission of the Future of the Permanent Fund, essentially does three things.

First, it declares a legislative finding that it's in the best interest of the state for an independent commission to gather public testimony about the Permanent Fund and report to the governor and legislature.

This finding is the rationale for the legislation... the Permanent Fund is the state's biggest and most valuable asset. In the next year or two we will be resolving complex issues about the priority of inflation proofing vis a vis the priority of dividends; capping the dividends, dedicating the earnings reserve account, and mandating that certain prospective revenue be added to the principle. HB 50 finds that the public interest is best served by soliciting public input on these issues, and finding out what other issues the public perceives concerning the Fund.

Second, HB 50 establishes a nine member Commission that will expire in February next year. Two members of each legislative body will be appointed by the respective presiding officers. The Governor will appoint three public members and the Commissioner of Revenue and the Chairman of the Board of the Permanent Fund Corporation will serve.

These members will provide public service without compensation except for per diem and travel. They will select their own chair-person.

The third thing HB 50 does is to require the Commission to conduct public hearings in all four judicial districts in the state and use the teleconference network to maximize the opportunity for public input. Finally, the Commission shall submit a report to the governor and legislature by February 1st, 1990.

The expenses for the Commission will not be borne by the General Fund. The Corporation will fund the expenses per their fiscal note.

HB 50

STATE OF ALASKA THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 1, 1989

SUBJECT: Commission on the Future of the Permanent Fund (HB 50(eff add))

TO: Representative H.A. Boucher

FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

You have asked whether the bill establishing the Commission on the Future of the Permanent Fund would be held unconstitutional if challenged under the separation of powers doctrine. That doctrine is recognized in Alaska. (Bradner v. Hammond, 553 P.2d 1 (Alaska 1976)) It generally operates to prevent the legislative branch from serving on or appointing members to an executive branch board or agency. The bill establishing this commission provides that it will be composed of certain executive branch officers and members of the House appointed by the Speaker and members of the Senate appointed by the President of the Senate. While the matter is not entirely free from doubt, I believe that this bill would not be held to violate the separation of powers doctrine if enacted despite the blend in composition of members from the two branches.

My opinion rests upon the nature of the Commission on the Future of the Permanent Fund. This commission does not enforce the law or perform another purely executive function. It is primarily an information gathering body focused upon an issue that is legislative in nature. It must determine what people think about the permanent fund and dividend program and whether either should be changed through legislation. The separation between the functions of each of the three branches of government is not absolute. (Mistretta v. United States, 102 L.Ed.2d 714, (1988) upholding the constitutionality of having members of the judicial branch sit on the Sentencing Commission) It is clear that the legislature cannot create a special instrumentality of government to implement specific legislation and retain control

Representative H.A. Boucher

Page 2

May 1, 1989

over the process of implementation by appointing legislators to the governing body. (State ex rel. Wallace v. Bone, 286 S.E.2d 79 (N.C. 1982)) But legislators may serve on boards where the service falls in the realm of cooperation on the part of the legislative and executive branches and where there is no attempt to usurp executive functions. (Schneider v. Bennett, 547 P2d 786; McLeod v. Edwards, 236 S.E.2d 406 (S.C. 1977))

The Commission on the Future of the Permanent Fund seems to be exactly the type of commission which by nature serves a cooperative fact finding function for both the executive and legislative branches of government. There have certainly been other examples of commissions formed in the past composed of members of both branches to serve an advisory function to both branches. (See for example chapter 160, SLA 1988, Task Force on Guiding and Game)

TBC:gc
WKG10/030

Bradner v. Hammond - Gov's appt. power can't be shared.
→ Gov. makes all appts. in Exec. branch. GICJ would be in Exec...

Dual-office holding
Generally if position advisory, OK. Red's Commission won't be enforcing law, etc. so probably OK.
Postsecondary Ed. is a problem.

lots of opinions written.... Can do, but risk losing title to leg. office

5-1-89
Jim Baldwin, AG

Doug Baily April 27

Will mention in veto message - Gov. will veto.
Oil Commission is very different

Senator Fairm -

The problem is the dual appointment procedure. -
By the Governor is the Legislature which may well (and probably does) violate separation of powers. While this problem is often "overlooked" - here, where the panel has the subpoena power there will likely be efforts to block the investigation. I expect, if challenged, the Commission in this form will be declared invalid.

RECEIVED

APR 28 1989

CSSB 277

JAN FAIKS

HB66LET.TXT

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman
RE: May 1 Committee Hearing
DATE: April 28, 1989

On Monday, May 1 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 192, An Act relating to legislators' eligibility for long-term per diem

A draft committee substitute prepared at the sponsor's request is attached. In addition to allowing long-term per diem to be paid for days spent attending a meeting of a legislative committee, the CS would make eligible attendance at a public meeting called by a governmental entity and days during which at least four hours are spent on legislative or constituent business.

SB 301, An Act relating to the power cost equalization program

SB 301 would restructure the Power Cost Equalization (PCE) program to establish residential customers as the first priority for funding, community facilities as the second priority, and commercial users as the third. In addition, eligible consumption levels would be reduced.

Included in the packet are proposed amendments that would adjust the percentage of costs eligible for subsidy, the minimum level to which rates may be subsidized, and eligibility requirements for participation in the program.

The PCE program became effective in October 1985. It is intended to lower power rates statewide to levels somewhat comparable to rates in Anchorage, Fairbanks, and Juneau. PCE funds are distributed to eligible utilities, and passed on to consumers through a credit on the consumer's electric bill. The Governor requested \$17,872,600 to fully fund the program in FY 90; the House budget proposes a 10% reduction, the Senate budget a 5% reduction. A fiscal note for SB 301 is being prepared.

It is not my intent to move SB 301 out of committee today.

HB 50, An Act establishing the Commission on the Future of the Permanent Fund and providing for public testimony on the use that should be made of the income of the permanent fund

HB 50 would establish a nine member commission in the Department of Revenue. The commission would conduct public hearings in each judicial district on inflation proofing, the dividend program, and other uses that could be made of the income of the Permanent Fund, and would submit a report to the Governor and Legislature by February 1, 1990.

Costs of the commission (\$155,600) would be paid from Permanent Fund earnings.

CSHB 66(Fin)am, An Act establishing the Alaska Commission on Children and Youth; abolishing the Office of Child Advocacy; relating to the Alaska children's trust fund

HB 66 would establish a commission to continue the work of the Governor's Interim Commission on Children and Youth created by Administrative Order in June 1987. The commission would be established in the Office of the Governor and would consist of four executive branch members and seven public members. It would be charged with developing a plan to address the needs of and problems facing children, and would be required to submit an annual report to the Legislature and the Governor.

HB 66 was amended in the House to give the commission responsibility for administration of the Alaska Children's Trust Fund, to authorize a \$10 check-off on the permanent fund dividend form (this would be the funding source for the commission and the Trust Fund), and to require that the commission's office be located in Anchorage or a location determined to be appropriate by a majority of the commission.

The commission would expire in 1994. The interim commission will cease to exist on May 15, 1989.

CSHB 216(Fin), An Act establishing an optional university retirement program for certain employees of the University of Alaska and certain community colleges

HB 216 would authorize the University Board of Regents to establish an optional retirement program for faculty members and certain administrative staff. In a defined contribution retirement plan, benefits would be immediately vested in individual participants. Participants become vested in PERS after 5 years and in TRS after 8 years.

HB 216 is intended to enhance the University's efforts to attract qualified professionals.

HB 50 COMMISSION ON THE FUTURE OF THE PERMANENT FUND

TO TESTIFY

REP. BOUCHER, SPONSOR (MARCO)

JIM KELLY, PERMANENT FUND CORPORATION

F.Y.I.

COSTS OF COMMISSION WOULD BE PAID FROM PERMANENT FUND EARNINGS.
JIM KELLY SAYS IMPACT ON P.F.D. WOULD BE ABOUT 3 CENTS.

-no C.S.
-Faiks may raise
"appointment"
question (legal opinion attached)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 15, 1989

SUBJECT: Sectional Summary of HB 50
TO: Representative H.A. "Red" Boucher
FROM: Tamara Brandt Cook *TBC*
Director
Division of Legal Services

Sec. 1. The legislature finds it in the best interest for a commission to gather testimony concerning the permanent fund and report its recommendations.

Sec. 2. The Commission on the Future of the Permanent Fund is established and membership is described.

Sec. 3 The Commission is required to conduct hearings in each judicial district to gather testimony from the public on matters regarding the permanent fund. By February 1, 1990 the commission is required to submit a report to the Governor and the Legislature summarizing the public testimony and containing its recommendations.

Sec. 4. The Act is repealed February 2, 1990.

TBC:gc
WKG7/032

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Commission on the Future of
the Permanent Fund
 Sponsor: Representative Boucher
 Requestor: House State Affairs

Agency Affected: Revenue/APFC
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	30.0	-	-	-	-
CONTRACTUAL	-	123.6	-	-	-	-
SUPPLIES	-	2.0	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LAND & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	155.6	-	-	-	-

CAPITAL	-	-	-	-	-	-
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REVENUE	-	-	-	-	-	-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	155.6	-	-	-	-
TOTAL	-	155.6	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS : (Attach a separate page if necessary)
(See Attachment)

Prepared by: David A. Rose *[Signature]*
 Division: Alaska Permanent Fund Corporation

Phone: 465-2047
 Date: April 4, 1989

Approved by Commissioner: Hugh Malone *[Signature]*
 Agency: Department of Revenue *[Signature]*

Date: April 4, 1989

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Continuation of Fiscal Note/Bill Analysis

House Bill No. 50

Commission on the Future of the Permanent Fund

Seven Months: (July 1, 1989 - January 31, 1990)

1. Travel

All In-State. Hearings in all four 30.0
Judicial districts for 9 Members and 2 staff
Plus multiple trips for chair and staff
Includes per diem as required

2. Contractual Services

Consultants/Temporary Staff: 33.6

1 Administrative Aide @ 3,800/month
1 Secretary (part-time) @ 1,000/month

Printing: 20.0

Final report @ 15.0
Informational handouts @ 5.0

Teleconferencing: 50.0

Communications: 5.0

Tax/Telephone/Courier @ 5.0

Advertising 10.0

Equipment Rental 5.0

=====
TOTAL CONTRACTUAL: 123.6

Continuation of Fiscal Note/Bill Analysis

House Bill No. 50

Commission of the Future of the Permanent Fund

This fiscal note calls for the use of Alaska Permanent Fund Corporation program receipts to pay the costs of the Commission on the Future of the Permanent Fund as proposed in House Bill No. 50.

If this bill passes, it is the Corporation's understanding that the Commission would be established in the Department of Revenue, within the Alaska Permanent Fund Corporation. Only on this basis would it be appropriate for the Corporation to use Permanent Fund income to pay the costs of the Commission.

The Corporation strongly opposes and will not support the concept of disbursing Alaska Permanent Fund Corporation program receipts to support the unrelated functions of other agencies. To do so would be to establish a dangerous precedent.