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STATE OF ALASKA
1992 LEGISLATIVE SESSION

No. 1
Bill Version: HB 432
(H) Publish Date: 1/29/92

Revision Date: _____ Department Affected: Education
Title: An act relating to investment BRU: Executive Administration
pools Component: Commissioner's Office
Sponsor: Governor
Requestor: _____ COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

See Attached

Prepared By: Mike Maher Phone: 465-2800
Division: Commissioner's Office Date: 1/21/92
Approved by Commissioner: *Mike Maher*, Jerry Covey
Agency: Education Date: 1/21/92

The Department feels strongly that the Commissioner of Education is not the appropriate entity to determine whether a particular REAA should or should not be allowed to participate in an investment pool. The Department lacks the resources and expertise to determine the financial health of REAAs.

This fiscal note was developed under the assumption that the Commissioner would not fulfill that function therefore no fiscal impact is indicated. However, should this responsibility be undertaken it would require an Accountant and an Auditor.

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 29, 1992

*The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182*

Dear Speaker Grussendorf:

Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to investment pools for public entities.

Section 2 of the bill amends AS 14.08.101 by allowing a regional educational attendance area (REAA) to participate in an investment pool, but only if approved by the commissioner of education. This will provide state oversight of an REAA's desire to participate in an investment pool. I believe such oversight is necessary because of the potential state liability problems associated with REAA's (which do not enjoy a distinct legal existence separate from the state). However, because only temporarily available surplus cash is allowed to be invested in an investment pool, the commissioner of education can determine whether a particular REAA is financially healthy and should be allowed to participate.

Section 3 of the bill amends AS 29 by requiring a municipality's governing body to consent to the municipality participating in an investment pool established under AS 37.27 before it may join.

Section 4 of the bill adds a new chapter on investment pools for public entities to AS 37. Specific investment criteria, objectives and guidelines, audit requirements, and disclosure policies to be followed by participants in an investment pool are set out in this section. Additionally, investment portfolio restrictions are established.

The Honorable Ben Grussendorf
January 29, 1992
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The bill provides that public entities participating in an investment pool may form nonprofit corporations for the purpose of overseeing the management of a pool. A nonprofit corporation and the participants in a pool are given explicit authority to spend money reasonably necessary for the management of the pool, including the hiring of necessary employees. However, the nonprofit corporation may not provide direct investment services. Instead, all investment pools (whether managed by nonprofit corporations or not) must provide for investment management and related services by contracting with one of the following: (1) an investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. 80b-1 - 80b-2); (2) the state Department of Revenue; or (3) an Alaska financial institution having trust powers. Investment managers are subject to the prudent-expert rule in performance of investment management and related services.

Finally, the bill defines those public entities allowed to participate in an investment pool as including all classes of municipalities and their subdivisions, school districts, REAA's (with the approval of the commissioner of education), organizations composed of political subdivisions (such as the Alaska Municipal League). Villages and nonprofit community corporations are excluded as public entities for the purposes of this bill.

I urge your support of this bill. Investment pools for public entities have been highly successful in other states that allow such investments. By allowing our public entities to invest jointly in investment pools, it is my hope that these entities will realize maximum investment returns with preservation of capital and liquidity and, eventually, help alleviate the growing local government burden on decreasing state revenue.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel". The signature is written in dark ink and is positioned above the printed name and title.

Walter J. Hickel
Governor




217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)463-5480

February 3, 1992

MEMORANDUM

TO: Representative Jerry Mackie, Chairman, House Community and Regional Affairs Committee

FROM: Scott A. Burgess, Executive Director 

SUBJECT: HB 432 - Investment Pools for Public Entities

I am formally requesting a hearing by the House Community and Regional Affairs Committee, the first committee of referral, on HB 432, An Act relating to investment pools for public entities. This legislation, introduced by request of the Governor, is a priority of the Alaska Municipal League, and I would appreciate your scheduling the bill as soon as possible.

The House Community and Regional Affairs Committee introduced similar authorizing legislation at the request of the AML last year as HB 199. Unfortunately, Governor Hickel vetoed SB 182, companion legislation introduced in the Senate. The major difference between HB 432 and SB 182/HB 199 is one of philosophy. As authorizing legislation requiring cooperative agreements, SB 182 and HB 199 relied on the contracts between interested parties (which did not include the state or state funds) to spell out investment criteria and policies. HB 432, a compromise worked out between the administration and the AML, puts many of these controls in statute, resulting in a longer bill but the effect, I believe, will be the same - an investment alternative for public entities to realize maximum investment returns consistent with the preservation of capital and liquidity. The AML has been ready to proceed with the formation of an investment pool under this legislation for over a year.

I am available to answer any questions, and I appreciate your assistance.

sab2:hb432req.22



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

Investment Pooling for Public Entities

The Alaska Municipal League urges the legislature and the governor to approve legislation authorizing public entities to enter into agreements with other public entities regarding the formation and operation of investment pools under which funds of the participating public entities can be administered and invested jointly.

Governor Hickel vetoed investment pool legislation (SB 182) introduced at the request of the Alaska Municipal League and passed by the 17th Legislature in 1991. The League continues to support such legislation to allow formation of a pool to provide professional investment advice and services to "public entities" for short-term, non-pension funds. Investments in such a pool would emphasize security and liquidity while providing a good rate of return. Investment policies and procedures would be included in the agreement between the pool and the entity choosing to participate. The pool would utilize only prime grade securities with short-term maturities and those with active secondary markets. "Public entities" should include municipalities, municipal school districts, REAA's, and organizations composed of such entities.

Such legislation would clarify the "joint powers" statute (AS 29.35.010 (13)) to specifically authorize such pools, give the AML the authority to establish the pool as a service program, and assist the pool in receiving a favorable IRS tax ruling. The AML is not seeking the assistance of the state in operating the pool. No state funds would be involved, and therefore there is no liability on the state. This is an example of how municipalities and school districts can work together to assist themselves and reduce their dependence on the state.

Local government investment pools exist in over 28 states. Some are operated by the state treasury and some are independent of the state. In November 1989, the AML membership, representing 125 municipalities, passed a resolution asking the AML Board of Directors to investigate the feasibility of a municipal investment pool. After a great deal of research and expense, the AML 1) determined the feasibility of such a pool and decided to proceed with the formation of a pool, 2) introduced legislation to clarify the League's authority to form and operate a pool, and 3) after sending out a request for proposals, selected a professional investment management firm and financial institution to assist the League with the formation and operation of the pool. Unfortunately, even though the legislation was approved by the legislature, Governor Hickel vetoed the legislation, delaying the implementation of the League pool.

The AML is waiting for the passage of legislation to establish a pool to provide investment services to public entities to protect and make the most of public funds.

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The following was published January 29, 1992:

Zero fiscal note, Department of Education

The Governor's transmittal letter, dated January 29, 1992 appears below:

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Section 4 of the bill adds a new chapter on investment pools for public entities to AS 37. Specific investment criteria, objectives and guidelines, audit requirements, and disclosure policies to be followed by participants in an investment pool are set out in this section. Additionally, investment portfolio restrictions are established.

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I urge your support of this bill. Investment pools for public entities have been highly successful in other states that allow such investments. By allowing our public entities to invest jointly in investment pools, it is my hope that these entities will realize maximum investment returns with preservation of capital and liquidity and, eventually, help alleviate the growing local government burden on decreasing state revenue.

Sincerely,

/s/

Walter J. Hickel
Governor"

HB 433

HOUSE BILL NO. 433 by Representatives Brown, Ellis, Koponen, Boyer, Ulmer, Navarre and Gruenberg, entitled:

"An Act relating to the waste of oil and gas and amending the powers and duties of the Alaska Oil and Gas Conservation Commission relating to determination of waste; and providing for an effective date."

was read the first time and referred to the House Special Committee on Oil & Gas and Resources Committees.

HB 434

HOUSE BILL NO. 434 by Representatives Moyer, Finkelstein, Boyer, Davidson, Ivan, Gruenberg, G. Phillips, Hudson, Baker, C. Davis, Koponen, Kubina, R. Phillips, Carney, Foster, Larson, Parnell, Bruckman, Ulmer, Sharp, Navarre and M.A. Miller, entitled:

"An Act relating to special motor vehicle registration plates for veterans and recipients of the Purple Heart."

was read the first time and referred to the Transportation and State Affairs Committees.



February 10, 1992

Position Paper

HB 432 - Investment Pools for Public Entities

The Alaska Municipal League supports HB 432, an Act relating to investment pools for public entities. Such legislation authorizing the formation and operation of investment pools by and for public entities, such as municipalities, school districts, and organizations composed of public entities, is a legislative priority of the Alaska Municipal League. HB 432 represents a compromise on behalf of the AML and the administration to meet their objections which resulted in Governor Hickel's veto of SB 182, introduced last year by the Senate Community and Regional Affairs Committee at the request of the League. Similar legislation, HB 199, was introduced by the House Community and Regional Affairs Committee. See a copy of the AML's Municipal Platform statement on investment pool legislation attached.

The major difference between HB 432 and CS for SB 182 (Finance), the legislation approved by the legislature last year, is one of philosophy. As authorizing legislation requiring cooperative agreements, CS for SB 182 (Finance) relied on the agreements or contracts between the public entities (which do not include the State of Alaska and state funds) choosing to participate in an investment pool to spell out in detail investment criteria and policies. HB 432, which also requires such agreements, puts many of these criteria and policies, such as a list of authorized investments, collateralization and reporting requirements, and liability limitations, in statute. The result is a longer bill with perhaps less flexibility on the part of the pool to respond to the sometimes rapidly changing world of finance; but, the effect will be the same - an investment alternative for public entities to realize maximum returns on short-term, non-pension funds consistent with the preservation of capital and liquidity.. HB 432 would allow municipalities, school districts, and the AML to form, operate, and invest in an investment pool for public entities.

The AML has spent considerable time and money researching and developing an investment pool and has been ready to proceed with the formation of a pool for public entities under this or similar legislation for over a year. The Alaska Municipal League urges the passage of HB 432 or similar legislation as soon as possible.

Attachment

c:sb374hb4.32