

HB37

CS FOR HOUSE BILL NO. 37 (STATE AFFAIRS)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 2/19/91  
Referred: Finance

Sponsor(s): REPRESENTATIVES ULMER, Koponen, B.Davis, Davidson

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska State Pension Corporation; relating to management and  
2 investment of state pension funds and other state funds; and providing for an effective  
3 date."

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

5 \* Section 1. FINDINGS. The legislature finds that after the Alaska State Pension Corporation has  
6 been established and begun to manage the state pension funds, the state should develop a comprehensive  
7 retirement organization. This organization should integrate the investment of pension funds with  
8 retirement benefit administration responsibilities for all state related retirement systems, including the  
9 Elected Public Officers Retirement System (former AS 39.37). Retirement benefit administration  
10 responsibilities should be integrated into the corporation when prudent.

11 \* Sec. 2. AS 37.10 is amended by adding new sections to read:

12 ARTICLE 5. ALASKA STATE PENSION CORPORATION.

13 Sec. 37.10.210. ALASKA STATE PENSION CORPORATION. (a) There is established  
14 the Alaska State Pension Corporation. The corporation is a public corporation in the Department

1 of Revenue managed by a board of trustees. The purpose of the corporation is to provide  
2 professional management and investment of state pension and benefits funds and of other state  
3 funds upon agreement with the managers of those funds.

4 (b) The board consists of nine trustees. Four of the trustees shall be elected by the  
5 members of the retirement systems. Nominations may be made by the teachers' retirement board,  
6 the public employees' retirement board, or by petition signed by at least 10 persons eligible to  
7 vote in the election. One of the elected trustees must be an active member of the public  
8 employees' retirement system, one must be receiving a benefit from the public employees'  
9 retirement system, one must be an active member of the teachers' retirement system, and one  
10 must be receiving a benefit from the teachers' retirement system. A fifth elected member must  
11 be an employee who is making contributions to the supplemental employee benefits system under  
12 AS 39.30.150 - 39.30.180, and who is elected by employees making contributions to the  
13 supplemental employee benefits system. Nominations for this position shall be made by petition  
14 signed by at least 10 persons eligible to vote in that election. The division of retirement and  
15 benefits in the Department of Administration shall conduct the elections for all the elected  
16 positions. The governor shall appoint two trustees from a list of nominees submitted by  
17 employers in the retirement systems. The governor shall appoint one additional trustee from a  
18 list of nominees submitted by the other eight trustees. The commissioner of revenue serves as  
19 a trustee.

20 (c) The appointed and elected trustees shall serve for staggered terms of four years and  
21 may be reappointed or reelected to the board.

22 (d) The governor may remove an elected or appointed trustee for just cause, including  
23 failure to comply with AS 37.10.230, by written notice to the trustee. After a trustee receives  
24 written notice of removal from the governor, the trustee may not participate in board business  
25 and may not be counted for purposes of establishing a quorum.

26 (e) A vacancy on the board of trustees shall be promptly filled in the same manner as  
27 the seat was originally filled. A person filling a vacancy holds office for the balance of the  
28 unexpired term of the person's predecessor. A vacancy on the board does not impair the  
29 authority of a quorum of the board to exercise all the powers and perform all the duties of the  
30 board.

31 (f) The board of trustees shall annually elect a chair from among its members.

1 (g) Five trustees constitute a quorum for the transaction of business and the exercise of  
2 the powers and duties of the board.

3 (h) A trustee may not designate another person to serve on the board in the absence of  
4 the trustee.

5 (i) Trustees shall participate in financial education training.

6 Sec. 37.10.220. POWERS AND DUTIES OF THE BOARD. (a) The board shall

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

9 (2) establish investment policies for the funds for which it is responsible after  
10 reviewing recommendations from the investment advisory council;

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

13 (4) report to the governor, the legislature, and employers participating in the  
14 retirement systems by the first day of each regular legislative session concerning the investment  
15 of funds for which the corporation is responsible including financial and investment policies  
16 established by the board and enclose a summary of the most recent performance evaluations of  
17 the funds managed by the corporation;

18 (5) contract with external performance evaluators to review the performance of  
19 each fund for which the corporation is responsible and report each year on the fund's condition  
20 to the board of trustees and to the other appropriate boards;

21 (6) engage independent certified public accountants to prepare an annual audit of  
22 each of the funds for which the corporation is responsible and to report to the board with the  
23 results of the audit.

24 (b) The board may

25 (1) employ outside investment advisors to review investment policies and make  
26 recommendations to the board;

27 (2) employ legal counsel;

28 (3) enter into an agreement with the manager of another state fund to assume  
29 fiduciary, administrative, or management responsibilities for investing the other state fund;

30 (4) provide for actuarial valuations of the retirement systems and other entities  
31 whose funds the board manages;

1                   (5) do all acts necessary, convenient, or desirable to carry out the powers  
2 expressly granted or necessarily implied in this chapter.

3                   Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees, the executive director,  
4 investment officers, and other fiduciaries who are employees of the corporation are subject to the  
5 provisions of AS 39.50. The board may designate other employees who are also subject to the  
6 provisions of AS 39.50.

7                   (b) If a trustee, officer, or employee of the corporation acquires, owns, or controls an  
8 interest, direct or indirect, in an entity or project in which assets under the control of the  
9 corporation are invested, the trustee, officer, or employee shall immediately disclose the interest  
10 to the board. The disclosure is a matter of public record and shall be included in the minutes  
11 of the board meeting next following the disclosure. The board shall adopt regulations to restrict  
12 trustees, officers, and employees from having a substantial interest in an entity or project in  
13 which assets under the control of the corporation are invested.

14                   (c) Failure to comply with the requirements of this section or regulations enacted under  
15 it is grounds for termination of employment.

16                   Sec. 37.10.240. REGULATIONS. The board may adopt regulations under the Admin-  
17 istrative Procedure Act (AS 44.62) to implement AS 37.10.210 - 37.10.390.

18                   Sec. 37.10.250. COMPENSATION OF TRUSTEES. Trustees, other than trustees who  
19 are employees of the state or a political subdivision of the state, receive an honorarium of \$150  
20 for each day spent at a meeting of the board or at a meeting of a subcommittee of the board or  
21 at a public meeting as a representative of the board. Trustees who are state employees are  
22 entitled to administrative leave for service as a trustee. Trustees who are employees of a political  
23 subdivision of the state are entitled to leave benefits provided by their employers comparable to  
24 those provided to state employees for service as a trustee. Trustees are entitled to per diem and  
25 travel expenses authorized for boards and commissions under AS 39.20.180.

26                   Sec. 37.10.260. STAFF. (a) The board shall employ an executive director. The  
27 executive director must be qualified by training and experience to manage, administer, and direct  
28 the investment of funds. The board shall fix the compensation of the executive director and other  
29 employees. The executive, administrative, and investment functions of the board are vested in  
30 the executive director who serves under the supervision of the board. With approval of the  
31 board, the executive director may appoint employees of the corporation as necessary.

1 (b) The board shall adopt regulations that restrict the executive director, investment  
2 directors, other officers, and employees from having financial interest, directly or indirectly, in  
3 firms or corporations that provide services to the corporation. Officers and employees of the  
4 corporation are subject to AS 39.52.

5 (c) The executive director and each investment director shall file a bond for the faithful  
6 performance of duties in the amount and with the sureties as required by the board.

7 (d) Officers and employees of the corporation are members of the exempt service under  
8 AS 39.25.110.

9 (e) A deed, contract, or other document that must be executed by or on behalf of the  
10 corporation shall be signed by the executive director.

11 Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint  
12 an investment advisory council composed of at least three and not more than five members.  
13 Members of the council shall possess experience and expertise in financial investments and  
14 portfolio management.

15 (b) Members of the council serve at the pleasure of the board for staggered terms of three  
16 years.

17 (c) The board shall establish the compensation of members of the council. Members of  
18 the council are entitled to per diem and travel expenses authorized for boards and commissions  
19 under AS 39.20.180.

20 (d) The council shall

21 (1) review the investments made by the board;

22 (2) make recommendations to the board concerning the board's investment  
23 policies, investment strategy, and investment procedures;

24 (3) advise the board on selection of performance consultants, auditors, and on the  
25 form and content of annual reports;

26 (4) provide other advice as requested by the board.

27 (e) With approval of the board, the council may contract with other state agencies to  
28 provide investment advice.

29 Sec. 37.10.280. INSURANCE. The corporation shall protect trusted assets and its own  
30 assets, services, and employees by purchasing insurance or providing for self-insurance retention  
31 in amounts recommended by the executive director and approved by the board to cover the acts,

1 including fiduciary acts, errors, and omissions of its board members, officers, employees, and  
2 agents. Insurance must protect the corporation and the state from liability to others and from loss  
3 of trustee assets and assets of the corporation.

4 Sec. 37.10.290. SURETY FOR DEPOSITS WITH BANKS. Banks, trust companies,  
5 savings banks, and other persons carrying on a banking business are authorized to give sureties  
6 to the corporation. The sureties shall be approved by the corporation to the effect that the banks  
7 or banking institutions shall faithfully keep and pay over to the order of or upon the warrant of  
8 the corporation or its authorized agent all money deposited with them by the corporation and  
9 agreed interest, at the times or upon the demands agreed on with the banks or banking  
10 institutions. In lieu of these sureties, a depository bank or other banking institution shall deposit  
11 with the corporation or its authorized agent or a trustee as collateral, securities approved by the  
12 corporation. The deposits of the corporation may be evidenced by agreements in the form and  
13 upon the terms and conditions that are agreed upon by the corporation and the depository banks  
14 or banking institutions.

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

20 Sec. 37.10.310. LIABILITY. A liability incurred by the corporation shall be satisfied  
21 exclusively from the assets or revenue of the corporation and a creditor or other person may not  
22 have a right of action against the state because of a debt, obligation, or liability of the  
23 corporation. A liability of the corporation may not be satisfied from trust assets unless expressly  
24 authorized by law.

25 Sec. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context  
26 otherwise requires,

- 27 (1) "board" means the board of trustees of the corporation;  
28 (2) "corporation" means the Alaska State Pension Corporation;  
29 (3) "retirement systems" means the teachers' retirement system, the judicial  
30 retirement system, the Alaska National Guard and Alaska Naval Militia retirement system, and  
31 the public employees' retirement system.

1 \* Sec. 3. AS 06.05.025 is amended by adding a new subsection to read:

2 (d) At the request of the board of trustees of the Alaska State Pension Corporation or of  
3 the legislative auditor, the department shall make an examination of the corporation under this  
4 section.

5 \* Sec. 4. AS 14.25.035(d) is amended to read:

6 (d) The commissioner of administration shall report to the board concerning the condition  
7 and administration of the system. The reports shall be distributed to the members of the system.  
8 The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] shall provide  
9 reports to the board on the condition and investment performance of the teachers' retirement trust  
10 fund including a summary of an annual external performance review.

11 \* Sec. 5. AS 14.25.180 is amended to read:

12 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The Alaska  
13 State Pension Corporation [COMMISSIONER OF REVENUE] is the [TREASURER OF THE  
14 SYSTEM AND THE] fiduciary of the fund. In managing the fund, the Alaska State Pension  
15 Corporation [COMMISSIONER OF REVENUE] shall

16 (1) consider the status of the fund's investments and the system's liabilities on  
17 both a current and a probable future basis;

18 (2) determine the appropriate investment objectives for the fund;

19 (3) establish investment policies aimed at achieving the objectives; and

20 (4) act only in regard to the best financial interests of the system's beneficiaries.

21 (b) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] may  
22 invest the fund on the basis of probable total rate of return without regard to the distinction  
23 between principal and income or to the generation of income.

24 (c) In carrying out investment duties under this chapter, the Alaska State Pension  
25 Corporation [COMMISSIONER OF REVENUE] has the same powers and duties in regard to  
26 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard of  
27 prudence that the corporation [COMMISSIONER] must obey under AS 37.10.071(c) shall be  
28 in regard to the management of large trust investments rather than large investments.

29 \* Sec. 6. AS 22.25.048(c) is amended to read:

30 (c) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] is the  
31 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same powers

1 and duties under this section in regard to the judicial retirement trust fund as are provided in  
2 AS 14.25.180.

3 \* Sec. 7. AS 26.05.228(c) is amended to read:

4 (c) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] is the  
5 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same powers  
6 and duties under this section in regard to the fund as are provided under AS 14.25.180.

7 \* Sec. 8. AS 36.30.850(b)(15) is amended to read:

8 (15) a contract that is a delegation, in whole or in part, of investment powers held  
9 by the commissioner of revenue under [AS 14.25.180,] AS 14.40.400, AS 14.42.200, 14.42.210,  
10 AS 18.56.095, [AS 22.25.048, AS 26.05.228,] AS 37.10.070, 37.10.071, or AS 37.14 [, OR  
11 AS 39.35.080];

12 \* Sec. 9. AS 36.30.990(1) is amended to read:

13 (1) "agency"

14 (A) means a department, institution, board, commission, division,  
15 authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of  
16 the executive branch of state government;

17 (B) does not include

18 (i) the University of Alaska;

19 (ii) the Alaska State Housing Authority;

20 (iii) the Alaska Railroad Corporation;

21 (iv) the Alaska Housing Finance Corporation;

22 (v) a regional Native housing authority created under  
23 AS 18.55.996, or a regional electrical authority created under AS 18.57.020; or

24 (vi) the Alaska State Pension Corporation;

25 \* Sec. 10. AS 37.10.071 is amended to read:

26 Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making investments  
27 under this section, the fiduciary of a state fund [COMMISSIONER OF REVENUE] shall

28 (1) act as official custodian of cash and investments by securing adequate and safe  
29 custodial facilities for them;

30 (2) receive all items of cash and investments;

31 (3) collect and deposit the principal of and income from owned or acquired

1 investments;

2 (4) invest and reinvest the assets in accordance with this section;

3 (5) receive and spend appropriations to cover the cost of the exercise of duties  
4 under this section;

5 (6) exercise the powers of an owner with respect to the assets;

6 (7) perform all acts, not prohibited by this section, whether or not expressly  
7 authorized, that the fiduciary [COMMISSIONER] considers necessary or proper in administering  
8 the assets;

9 (8) maintain accounting records in accordance with generally accented  
10 [INVESTMENT] accounting principles;

11 (9) engage an independent certified public accountant to conduct an annual audit  
12 of the financial condition and investment transactions;

13 (10) enter into and enforce contracts or agreements considered necessary,  
14 convenient, or desirable for the investment purposes of this section; and

15 (11) when choosing to acquire or dispose of investments, secure competitive  
16 national or international market rates or prices, or the equivalence of those rates or prices in the  
17 judgment of the fiduciary [COMMISSIONER].

18 (b) Under this section, the fiduciary of a state fund or the fiduciary's  
19 [COMMISSIONER OR THE COMMISSIONER'S] designee may

20 (1) delegate investment, custodial, or depository authority on a discretionary or  
21 nondiscretionary basis to officers or employees of the state or to independent firms, banks, or  
22 trust companies, by designation through appointments, contracts, or letters or authority;

23 (2) acquire or dispose of investments either directly, indirectly, or through  
24 investment pools or trusts, by competitive or negotiated agreements, contracts, or auctions, in  
25 public or private markets;

26 (3) concentrate or diversify investments as the fiduciary [COMMISSIONER]  
27 considers appropriate to increase the probable total rate of return or to decrease the overall  
28 exposure to potentially adverse market value risks;

29 (4) protect the market value or the rate of return of the investments by entering  
30 into forward agreements to buy or sell assets at a future date as a hedge against existing held  
31 assets or as a precommitment of future cash flows;

1 (5) lend assets, under an agreement and for a fee, against deposited collateral of  
2 equivalent market value;

3 (6) borrow assets on a short-term basis, under an agreement and for a fee, against  
4 the deposit of collateral consisting of other assets in order to accommodate temporary cash or  
5 investment needs;

6 (7) hold investments in bearer or registered form in the name of the state, a fund,  
7 or nominees authorized by the fiduciary [COMMISSIONER];

8 (8) utilize consultants, advisors, custodians, investment services, and legal counsel  
9 for assistance in investment matters on either a continuing or a limited-term basis and with or  
10 without compensation;

11 (9) declare records to be confidential and exempt from AS 09.25.110 and  
12 09.25.120 if the records contain information that discloses the particulars of the business or the  
13 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

14 (c) In exercising investment, custodial, or depository powers or duties under this section,  
15 the fiduciary of a state fund [COMMISSIONER] shall exercise the judgment and care under  
16 the circumstances then prevailing that an institutional investor of ordinary professional prudence,  
17 discretion, and intelligence exercises in managing large investments with consideration for the  
18 purpose of the fund, the investment objectives, the continuing disposition of the fund's  
19 investments, and the probable safety of the capital as well as the probable investment returns.  
20 With respect to the Alaska State Pension Corporation, the fiduciaries of the corporation  
21 shall apply the prudent investor rule and exercise their fiduciary duty in the sole financial  
22 best interest of the funds entrusted to them and of the beneficiaries of those funds. The  
23 trustees may not make or authorize investment decisions or the voting of shares for a  
24 purpose other than the sole financial best interest of the funds or beneficiaries.

25 (d) In exercising investment, custodial, or depository powers or duties under this section,  
26 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE  
27 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this  
28 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160,  
29 37.14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE  
30 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to  
31 another person if the delegation is prudent under the applicable standard of prudence set out in

1 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary  
2 [COMMISSIONER] or designee

3 (1) knowingly participates [PARTICIPATE] in, or knowingly undertakes to  
4 conceal, an act or omission of another person, knowing that the act or omission is a breach of  
5 that person's duties under this chapter;

6 (2) by failure to comply with this section in the administration of specific  
7 responsibilities, enables another person to commit a breach of duty; or

8 (3) has knowledge of a breach of duty by another person, unless the fiduciary  
9 [COMMISSIONER] or designee makes reasonable efforts under the circumstances to remedy the  
10 breach.

11 (e) The state shall defend and indemnify the fiduciary [COMMISSIONER] or an officer  
12 or employee of the state against liability under (d) of this section to the extent that the alleged  
13 act or omission was performed in good faith and was prudent under the applicable standard of  
14 prudence.

15 (f) In this section, "fiduciary of a state fund" or "fiduciary" ["COMMISSIONER OF  
16 REVENUE" OR "COMMISSIONER"] means

17 (1) the commissioner of revenue for investments under [AS 14.25.180 OR]  
18 AS 37.10.070; [OR]

19 (2) with respect to the Alaska State Pension Corporation, for investments  
20 under AS 14.25.180,

21 (A) each trustee who serves on the corporation's board of directors;

22 (B) each officer of the corporation; and

23 (C) any other person who exercises control or authority with respect  
24 to management or disposition of assets held by the corporation or who gives  
25 investment advice to the corporation; or

26 (3) the person or body provided by law to manage the investments, for  
27 investments not subject to AS 14.25.180 or AS 37.10.070.

28 \* Sec. 11. AS 39.25.110(11) is amended by adding a new subparagraph to read:

29 (G) Alaska State Pension Corporation;

30 \* Sec. 12. AS 39.30 is amended by adding a new section to read:

31 Sec. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS. The Alaska State

1 Pension Corporation is the fiduciary of the receipts of the employee benefits program established  
2 under AS 39.30.150 - 39.30.180 and has the powers and duties concerning the management and  
3 investment in regard to those receipts that are provided under AS 14.25.180.

4 \* Sec. 13. AS 39.35.020 is amended to read:

5 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible  
6 for the administration of the system and for carrying out this chapter. In addition the  
7 commissioner shall

8 (1) maintain the accounts of the system;  
9 (2) make payments for the various purposes specified;  
10 (3) submit periodic reports or statements of account that are needed;  
11 (4) issue a statement of account to an employee requesting it showing the amount  
12 of the employee's contributions to the system;

13 (5) as soon as possible after the close of each fiscal year, and not later than six  
14 months after the close of each fiscal year, send to the governor, the legislature, and the board an  
15 annual statement on the operations of the system containing

16 (A) a balance sheet;  
17 (B) a statement of income and expenditures for the year;  
18 (C) a report on an actuarial valuation of its assets and liabilities;  
19 (D) a summary of assets held in the pension fund listed by the categories  
20 of investment, as provided by the Alaska State Pension Corporation [COMMISSIONER  
21 OF REVENUE];

22 (E) other statistical financial data that are necessary for a proper  
23 understanding of the financial condition of the system and the result of its operations;

24 (6) establish a public employees retirement trust fund in which the assets of the  
25 system shall be deposited and held;

26 (7) engage an independent certified public accountant to conduct an annual audit  
27 of the system's accounts and the annual report of the system's financial condition and activity;

28 (8) report to the board concerning the condition and administration of the system  
29 and distribute the report to the members of the system.

30 \* Sec. 14. AS 39.35.080 is amended to read:

31 Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION CORPORATION

1 [COMMISSIONER OF REVENUE]. The Alaska State Pension Corporation  
2 [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE]  
3 fiduciary of the fund. The corporation [COMMISSIONER] has the same powers and duties  
4 established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and  
5 14.25.180.

6 \* Sec. 15. AS 39.50.200(b) is amended by adding a new paragraph to read:

7 (52) Alaska State Pension Corporation (AS 37.10.210).

8 \* Sec. 16. AS 44.25.020 is amended to read:

9 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue shall

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

11 (2) collect, account for, have custody of, invest, and manage all state funds and  
12 all revenues of the state except revenues incidental to a program of licensing and regulation  
13 carried on by another state department and funds managed and invested by the Alaska State  
14 Pension Corporation;

15 (3) register cattle brands;

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

18 (5) invest and manage the balance of the power development fund in accordance  
19 with AS 44.83.386.

20 \* Sec. 17. TRANSITION. All litigation, hearings, investigations, and other proceedings pending  
21 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,  
22 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal  
23 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended  
24 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise  
25 modified under the provisions of this Act. All contracts, rights, liabilities and obligations created by or  
26 under a law amended or repealed by this Act, and in effect on the effective date of this Act, remain in  
27 effect notwithstanding this Act's taking effect. Records, equipment, and other property of agencies of  
28 the state whose functions are transferred under this Act shall be transferred commensurate with the  
29 provisions of this Act.

30 \* Sec. 18. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by  
31 sec. 2 of this Act, the initial terms of the members, other than the commissioner of revenue, of the board

1 of trustees of the Alaska State Pension Corporation shall be as follows:

2 (1) one elected member and one appointed member shall serve terms of four years;

3 (2) two elected members shall serve terms of three years;

4 (3) one elected member and one appointed member shall serve terms of two years;

5 (4) one elected member and one appointed member shall serve one-year terms.

6 (b) The board of trustees of the Alaska State Pension Corporation may hold organizational  
7 meetings as soon as a quorum of the board has been appointed to or selected for the board.

8 \* Sec. 19. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 2 of this Act, and sec. 18 of this  
9 Act take effect July 1, 1991.

10 \* Sec. 20. Except as provided in sec. 19 of this Act, this Act takes effect on the earlier of July 1,  
11 1992, or the date established by resolution of the board of trustees of the Alaska State Pension  
12 Corporation for the transfer to it of securities and assets of the retirement and benefits funds. The board  
13 shall promptly provide the revisor of statutes and the lieutenant governor with a copy of this resolution.

**HOUSE BILL NO. 37****IN THE LEGISLATURE OF THE STATE OF ALASKA****SEVENTEENTH LEGISLATURE - FIRST SESSION****BY REPRESENTATIVES ULMER, Koponen, B.Davis**

Introduced: 1/21/91

Referred: State Affairs, Finance

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9 Elected Public Officers Retirement System (former AS 39.37). Retirement benefit administration  
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3 professional management and investment of state pension funds and of other state funds upon  
4 agreement with the managers of those funds.

5 (b) The board consists of seven trustees. Three of the trustees shall be elected by the  
6 members of the retirement systems. Nominations may be made by the teachers' retirement board,  
7 the public employees' retirement board, or by petition signed by at least 10 persons eligible to  
8 vote in the election. One of the elected trustees must be an active member of one of the  
9 retirement systems, one must be receiving a benefit from one of the retirement systems, and one  
10 may be either an active member or receiving a benefit from one of the retirement systems. The  
11 governor shall appoint two trustees from a list of nominees submitted by employers in the  
12 retirement systems. The governor shall appoint one additional trustee from a list of nominees  
13 submitted by the other six trustees. The commissioner of revenue serves as a trustee.

14 (c) The appointed and elected trustees shall serve for staggered terms of four years and  
15 may be reappointed or reelected to the board.

16 (d) The governor may remove an elected or appointed trustee for just cause, including  
17 failure to comply with AS 37.10.230, by written notice to the trustee. After a trustee receives  
18 written notice of removal from the governor, the trustee may not participate in board business  
19 and may not be counted for purposes of establishing a quorum.

20 (e) A vacancy on the board of trustees shall be promptly filled in the same manner as  
21 the seat was originally filled. A person filling a vacancy holds office for the balance of the  
22 unexpired term of the person's predecessor. A vacancy on the board does not impair the  
23 authority of a quorum of the board to exercise all the powers and perform all the duties of the  
24 board.

25 (f) The board of trustees shall annually elect a chair from among its members.

26 (g) Four trustees constitute a quorum for the transaction of business and the exercise of  
27 the powers and duties of the board.

28 (h) A trustee may not designate another person to serve on the board in the absence of  
29 the trustee.

30 (i) Trustees shall participate in financial education training.

31 Sec. 37.10.220. POWERS AND DUTIES OF THE BOARD. (a) The board shall

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

3 (2) establish investment policies for the funds for which it is responsible after  
4 reviewing recommendations from the investment advisory council;

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

7 (4) report to the governor, the legislature, and employers participating in the  
8 retirement systems by the first day of each regular legislative session concerning the investment  
9 of funds for which the corporation is responsible including financial and investment policies  
10 established by the board and enclose a summary of the most recent performance evaluations of  
11 the funds managed by the corporation;

12 (5) contract with external performance evaluators to review the performance of  
13 each fund for which the corporation is responsible and report each year on the fund's condition  
14 to the board of trustees and to the other appropriate boards;

15 (6) engage independent certified public accountants to prepare an annual audit of  
16 each of the funds for which the corporation is responsible and to report to the board with the  
17 results of the audit.

18 (b) The board may

19 (1) employ outside investment advisors to review investment policies and make  
20 recommendations to the board;

21 (2) employ legal counsel;

22 (3) enter into an agreement with the manager of another state fund to assume  
23 fiduciary, administrative, or management responsibilities for investing the other state fund;

24 (4) provide for actuarial valuations of the retirement systems and other entities  
25 whose funds the board manages;

26 (5) do all acts necessary, convenient, or desirable to carry out the powers  
27 expressly granted or necessarily implied in this chapter.

28 Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees, the executive director,  
29 investment officers, and other fiduciaries who are employees of the corporation are subject to the  
30 provisions of AS 39.50. The board may designate other employees who are also subject to the  
31 provisions of AS 39.50.

1 (b) If a trustee, officer, or employee of the corporation acquires, owns, or controls an  
2 interest, direct or indirect, in an entity or project in which assets under the control of the  
3 corporation are invested, the trustee, officer, or employee shall immediately disclose the interest  
4 to the board. The disclosure is a matter of public record and shall be included in the minutes  
5 of the board meeting next following the disclosure. The board shall adopt regulations to restrict  
6 trustees, officers, and employees from having a substantial interest in an entity or project in  
7 which assets under the control of the corporation are invested.

8 (c) Failure to comply with the requirements of this section or regulations enacted under  
9 it is grounds for termination of employment.

10 Sec. 37.10.240. REGULATIONS. The board may adopt regulations under the Admin-  
11 istrative Procedure Act (AS 44.62) to implement AS 37.10.210 - 37.10.390.

12 Sec. 37.10.250. COMPENSATION OF TRUSTEES. Trustees, other than trustees who  
13 are employees of the state or a political subdivision of the state, receive an honorarium of \$150  
14 for each day spent at a meeting of the board or at a meeting of a subcommittee of the board or  
15 at a public meeting as a representative of the board. Trustees who are state employees are  
16 entitled to administrative leave for service as a trustee. Trustees who are employees of a political  
17 subdivision of the state are entitled to leave benefits provided by their employers comparable to  
18 those provided to state employees for service as a trustee. Trustees are entitled to per diem and  
19 travel expenses authorized for boards and commissions under AS 39.20.180.

20 Sec. 37.10.260. STAFF. (a) The board shall employ an executive director. The  
21 executive director must be qualified by training and experience to manage, administer, and direct  
22 the investment of funds. The board shall fix the compensation of the executive director and other  
23 employees. The executive, administrative, and investment functions of the board are vested in  
24 the executive director who serves under the supervision of the board. With approval of the  
25 board, the executive director may appoint employees of the corporation as necessary.

26 (b) The board shall adopt regulations that restrict the executive director, investment  
27 directors, other officers, and employees from having financial interest, directly or indirectly, in  
28 firms or corporations that provide services to the corporation. Officers and employees of the  
29 corporation are subject to AS 39.52.

30 (c) The executive director and each investment director shall file a bond for the faithful  
31 performance of duties in the amount and with the sureties as required by the board.

1 (d) Officers and employees of the corporation are members of the exempt service under  
2 AS 39.25.110.

3 (e) A deed, contract, or other document that must be executed by or on behalf of the  
4 corporation shall be signed by the executive director.

5 Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. The board shall appoint an  
6 investment advisory council composed of at least three and not more than five members.  
7 Members of the council shall possess experience and expertise in financial investments and  
8 portfolio management.

9 (b) Members of the council serve at the pleasure of the board for staggered terms of three  
10 years.

11 (c) The board shall establish the compensation of members of the council. Members of  
12 the council are entitled to per diem and travel expenses authorized for boards and commissions  
13 under AS 39.20.180.

14 (d) The council shall

15 (1) review the investments made by the board;

16 (2) make recommendations to the board concerning the board's investment  
17 policies, investment strategy, and investment procedures;

18 (3) advise the board on selection of performance consultants, auditors, and on the  
19 form and content of annual reports;

20 (4) provide other advice as requested by the board.

21 (e) With approval of the board, the council may contract with other state agencies to  
22 provide investment advice.

23 Sec. 37.10.280. INSURANCE. The corporation shall protect trusteed assets and its own  
24 assets, services, and employees by purchasing insurance or providing for self-insurance retention  
25 in amounts recommended by the executive director and approved by the board to cover the acts,  
26 including fiduciary acts, errors, and omissions of its board members, officers, employees, and  
27 agents. Insurance must protect the corporation and the state from liability to others and from loss  
28 of trusteed assets and assets of the corporation.

29 Sec. 37.10.290. EXEMPTION FROM TAXATION. The corporation and all properties  
30 at any time owned by it, managed by it, or held by it in trust, and the income from those  
31 activities, are exempt from all taxes and assessments in the state. All security instruments issued

1 by the corporation and income from them are exempt from all taxes and assessments in the state,  
2 including transfer taxes.

3 Sec. 37.10.300. SURETY FOR DEPOSITS WITH BANKS. Banks, trust companies,  
4 savings banks, and other persons carrying on a banking business are authorized to give sureties  
5 to the corporation. The sureties shall be approved by the corporation to the effect that the banks  
6 or banking institutions shall faithfully keep and pay over to the order of or upon the warrant of  
7 the corporation or its authorized agent all money deposited with them by the corporation and  
8 agreed interest, at the times or upon the demands agreed on with the banks or banking  
9 institutions. In lieu of these sureties, a depository bank or other banking institution shall deposit  
10 with the corporation or its authorized agent or a trustee as collateral, securities approved by the  
11 corporation. The deposits of the corporation may be evidenced by agreements in the form and  
12 upon the terms and conditions that are agreed upon by the corporation and the depository banks  
13 or banking institutions.

14 Sec. 37.10.310. LIMITATIONS. The corporation may not engage in commercial banking  
15 activity or private trust activity. The corporation may not act as a depository or trustee for a  
16 private person, association, or corporation. The corporation may not act as a lender to a private  
17 person, association, or corporation of money from any source except state funds under  
18 management by the corporation.

19 Sec. 37.10.320. LIABILITY. A liability incurred by the corporation shall be satisfied  
20 exclusively from the assets or revenue of the corporation and a creditor or other person may not  
21 have a right of action against the state because of a debt, obligation, or liability of the  
22 corporation. A liability of the corporation may not be satisfied from trust assets unless expressly  
23 authorized by law.

24 Sec. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context  
25 otherwise requires,

- 26 (1) "board" means the board of trustees of the corporation;  
27 (2) "corporation" means the Alaska State Pension Corporation;  
28 (3) "retirement systems" means the teachers' retirement system, the judicial  
29 retirement system, the Alaska National Guard and Alaska Naval Militia retirement system, and  
30 the public employees' retirement system.

31 \* Sec. 3. AS 06.05.025 is amended by adding a new subsection to read:

1 (d) At the request of the board of trustees of the Alaska State Pension Corporation or of  
2 the legislative auditor, the department shall make an examination of the corporation under this  
3 section.

4 \* Sec. 4. AS 14.25.035(d) is amended to read:

5 (d) The commissioner of administration shall report to the board concerning the condition  
6 and administration of the system. The reports shall be distributed to the members of the system.  
7 The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] shall provide  
8 reports to the board on the condition and investment performance of the teachers' retirement trust  
9 fund including a summary of an annual external performance review.

10 \* Sec. 5. AS 14.25.180 is amended to read:

11 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The Alaska  
12 State Pension Corporation [COMMISSIONER OF REVENUE] is the [TREASURER OF THE  
13 SYSTEM AND THE] fiduciary of the fund. In managing the fund, the Alaska State Pension  
14 Corporation [COMMISSIONER OF REVENUE] shall

15 (1) consider the status of the fund's investments and the system's liabilities on  
16 both a current and a probable future basis;

17 (2) determine the appropriate investment objectives for the fund;

18 (3) establish investment policies aimed at achieving the objectives; and

19 (4) act only in regard to the best financial interests of the system's beneficiaries.

20 (b) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] may  
21 invest the fund on the basis of probable total rate of return without regard to the distinction  
22 between principal and income or to the generation of income.

23 (c) In carrying out investment duties under this chapter, the Alaska State Pension  
24 Corporation [COMMISSIONER OF REVENUE] has the same powers and duties in regard to  
25 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard of  
26 prudence that the corporation [COMMISSIONER] must obey under AS 37.10.071(c) shall be  
27 in regard to the management of large trust investments rather than large investments.

28 \* Sec. 6. AS 22.25.048(c) is amended to read:

29 (c) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] is the  
30 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same powers  
31 and duties under this section in regard to the judicial retirement trust fund as are provided in

1 AS 14.25.180.

2 \* Sec. 7. AS 26.05.228(c) is amended to read:

3 (c) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] is the  
4 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same powers  
5 and duties under this section in regard to the fund as are provided under AS 14.25.180.

6 \* Sec. 8. AS 36.30.850(b)(15) is amended to read:

7 (15) a contract that is a delegation, in whole or in part, of investment powers held  
8 by the commissioner of revenue under [AS 14.25.180,] AS 14.40.400, AS 14.42.200, 14.42.210,  
9 AS 18.56.095, [AS 22.25.048, AS 26.05.228,] AS 37.10.070, 37.10.071, or AS 37.14 [, or  
10 AS 39.35.080];

11 \* Sec. 9. AS 36.30.990(1) is amended to read:

12 (1) "agency"

13 (A) means a department, institution, board, commission, division,  
14 authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of  
15 the executive branch of state government;

16 (B) does not include

17 (i) [, EXCEPT FOR] the University of Alaska;

18 (ii) [,] the Alaska State Housing Authority;

19 (iii) the [AND] Alaska Railroad Corporation;

20 (iv) the Alaska State Pension Corporation;

21 (v) [IT DOES NOT INCLUDE] a regional Native housing  
22 authority created under AS 18.55.996; [,] or

23 (vi) a regional electrical authority created under  
24 AS 18.57.020;

25 \* Sec. 10. AS 37.10.071 is amended to read:

26 Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making investments  
27 under this section, the fiduciary of a state fund [COMMISSIONER OF REVENUE] shall

28 (1) act as official custodian of cash and investments by securing adequate and safe  
29 custodial facilities for them;

30 (2) receive all items of cash and investments;

31 (3) collect and deposit the principal of and income from owned or acquired

1 investments;

2 (4) invest and reinvest the assets in accordance with this section;

3 (5) receive and spend appropriations to cover the cost of the exercise of duties  
4 under this section;

5 (6) exercise the powers of an owner with respect to the assets;

6 (7) perform all acts, not prohibited by this section, whether or not expressly  
7 authorized, that the fiduciary [COMMISSIONER] considers necessary or proper in administering  
8 the assets;

9 (8) maintain accounting records in accordance with generally accepted  
10 [INVESTMENT] accounting principles;

11 (9) engage an independent certified public accountant to conduct an annual audit  
12 of the financial condition and investment transactions;

13 (10) enter into and enforce contracts or agreements considered necessary,  
14 convenient, or desirable for the investment purposes of this section; and

15 (11) when choosing to acquire or dispose of investments, secure competitive  
16 national or international market rates or prices, or the equivalence of those rates or prices in the  
17 judgment of the fiduciary [COMMISSIONER].

18 (b) Under this section, the fiduciary of a state fund or the fiduciary's  
19 [COMMISSIONER OR THE COMMISSIONER'S] designee may

20 (1) delegate investment, custodial, or depository authority on a discretionary or  
21 nondiscretionary basis to officers or employees of the state or to independent firms, banks, or  
22 trust companies, by designation through appointments, contracts, or letters or authority;

23 (2) acquire or dispose of investments either directly, indirectly, or through  
24 investment pools or trusts, by competitive or negotiated agreements, contracts, or auctions, in  
25 public or private markets;

26 (3) concentrate or diversify investments as the fiduciary [COMMISSIONER]  
27 considers appropriate to increase the probable total rate of return or to decrease the overall  
28 exposure to potentially adverse market value risks;

29 (4) protect the market value or the rate of return of the investments by entering  
30 into forward agreements to buy or sell assets at a future date as a hedge against existing held  
31 assets or as a precommitment of future cash flows;

1 (5) lend assets, under an agreement and for a fee, against deposited collateral of  
2 equivalent market value;

3 (6) borrow assets on a short-term basis, under an agreement and for a fee, against  
4 the deposit of collateral consisting of other assets in order to accommodate temporary cash or  
5 investment needs;

6 (7) hold investments in bearer or registered form in the name of the state, a fund,  
7 or nominees authorized by the fiduciary [COMMISSIONER];

8 (8) utilize consultants, advisors, custodians, investment services, and legal counsel  
9 for assistance in investment matters on either a continuing or a limited-term basis and with or  
10 without compensation;

11 (9) declare records to be confidential and exempt from AS 09.25.110 and  
12 09.25.120 if the records contain information that discloses the particulars of the business or the  
13 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

14 (c) In exercising investment, custodial, or depository powers or duties under this section,  
15 the fiduciary of a state fund [COMMISSIONER] shall exercise the judgment and care under  
16 the circumstances then prevailing that an institutional investor of ordinary professional prudence,  
17 discretion, and intelligence exercises in managing large investments with consideration for the  
18 purpose of the fund, the investment objectives, the continuing disposition of the fund's  
19 investments, and the probable safety of the capital as well as the probable investment returns.  
20 With respect to the Alaska State Pension Corporation, the fiduciaries of the corporation  
21 shall apply the prudent investor rule and exercise their fiduciary duty in the sole financial  
22 best interest of the funds entrusted to them and of the beneficiaries of those funds. The  
23 trustees may not make or authorize investment decisions or the voting of shares for a  
24 purpose other than the sole financial best interest of the funds or beneficiaries.

25 (d) In exercising investment, custodial, or depository powers or duties under this section,  
26 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE  
27 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this  
28 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160,  
29 37.14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE  
30 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to  
31 another person if the delegation is prudent under the applicable standard of prudence set out in

1 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary  
2 [COMMISSIONER] or designee

3 (1) knowingly participates [PARTICIPATE] in, or knowingly undertakes to  
4 conceal, an act or omission of another person, knowing that the act or omission is a breach of  
5 that person's duties under this chapter;

6 (2) by failure to comply with this section in the administration of specific  
7 responsibilities, enables another person to commit a breach of duty; or

8 (3) has knowledge of a breach of duty by another person, unless the fiduciary  
9 [COMMISSIONER] or designee makes reasonable efforts under the circumstances to remedy the  
10 breach.

11 (e) The state shall defend and indemnify the fiduciary [COMMISSIONER] or an officer  
12 or employee of the state against liability under (d) of this section to the extent that the alleged  
13 act or omission was performed in good faith and was prudent under the applicable standard of  
14 prudence.

15 (f) In this section, "fiduciary of a state fund" or "fiduciary" ["COMMISSIONER OF  
16 REVENUE" OR "COMMISSIONER"] means

17 (1) the commissioner of revenue for investments under [AS 14.25.180 OR]  
18 AS 37.10.070; [OR]

19 (2) with respect to the Alaska State Pension Corporation, for investments  
20 under AS 14.25.180,

21 (A) each trustee who serves on the corporation's board of directors;

22 (B) each officer of the corporation; and

23 (C) any other person who exercises control or authority with respect  
24 to management or disposition of assets held by the corporation or who gives  
25 investment advice to the corporation; or

26 (3) the person or body provided by law to manage the investments, for  
27 investments not subject to AS 14.25.180 or AS 37.10.070.

28 \* Sec. 11. AS 39.25.110(11) is amended by adding a new subparagraph to read:

29 (G) Alaska State Pension Corporation;

30 \* Sec. 12. AS 39.35.020 is amended to read:

31 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible

1 for the administration of the system and for carrying out this chapter. In addition the  
2 commissioner shall

3 (1) maintain the accounts of the system;  
4 (2) make payments for the various purposes specified;  
5 (3) submit periodic reports or statements of account that are needed;  
6 (4) issue a statement of account to an employee requesting it showing the amount  
7 of the employee's contributions to the system;

8 (5) as soon as possible after the close of each fiscal year, and not later than six  
9 months after the close of each fiscal year, send to the governor, the legislature, and the board an  
10 annual statement on the operations of the system containing

11 (A) a balance sheet;  
12 (B) a statement of income and expenditures for the year;  
13 (C) a report on an actuarial valuation of its assets and liabilities;  
14 (D) a summary of assets held in the pension fund listed by the categories  
15 of investment, as provided by the Alaska State Pension Corporation [COMMISSIONER  
16 OF REVENUE];

17 (E) other statistical financial data that are necessary for a proper  
18 understanding of the financial condition of the system and the result of its operations;

19 (6) establish a public employees retirement trust fund in which the assets of the  
20 system shall be deposited and held;

21 (7) engage an independent certified public accountant to conduct an annual audit  
22 of the system's accounts and the annual report of the system's financial condition and activity;

23 (8) report to the board concerning the condition and administration of the system  
24 and distribute the report to the members of the system.

25 \* Sec. 13. AS 39.35.080 is amended to read:

26 Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION CORPORATION  
27 [COMMISSIONER OF REVENUE]. The Alaska State Pension Corporation  
28 [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE]  
29 fiduciary of the fund. The corporation [COMMISSIONER] has the same powers and duties  
30 established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and  
31 14.25.180.

1 \* Sec. 14. AS 39.50.200(b) is amended by adding a new paragraph to read:

2 (52) Alaska State Pension Corporation (AS 37.10.210).

3 \* Sec. 15. AS 44.25.020 is amended to read:

4 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue shall

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

6 (2) collect, account for, have custody of, invest, and manage all state funds and  
7 all revenues of the state except revenues incidental to a program of licensing and regulation  
8 carried on by another state department and funds managed and invested by the Alaska State  
9 Pension Corporation;

10 (3) register cattle brands;

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

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

15 \* Sec. 16. TRANSITION. All litigation, hearings, investigations, and other proceedings pending  
16 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,  
17 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal  
18 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended  
19 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise  
20 modified under the provisions of this Act. All contracts, rights, liabilities and obligations created by or  
21 under a law amended or repealed by this Act, and in effect on the effective date of this Act, remain in  
22 effect notwithstanding this Act's taking effect. Records, equipment, and other property of agencies of  
23 the state whose functions are transferred under this Act shall be transferred commensurate with the  
24 provisions of this Act.

25 \* Sec. 17. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by  
26 sec. 2 of this Act, the initial terms of the members, other than the commissioner of revenue, of the board  
27 of trustees of the Alaska State Pension Corporation shall be as follows:

28 (1) one elected member and one appointed member shall serve terms of four years;

29 (2) one elected member and one appointed member shall serve terms of two years;

30 (3) one elected member and one appointed member shall serve one-year terms.

31 (b) The board of trustees of the Alaska State Pension Corporation may hold organizational

1 meetings as soon as a quorum of the board has been appointed to or selected for the board.

2 \* Sec. 18. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 2 of this Act, and sec. 17 of this  
3 Act take effect July 1, 1991.

4 \* Sec. 19. Except as provided in sec. 18 of this Act, this Act takes effect on the earlier of July 1,  
5 1992, or the date established by resolution of the board of trustees of the Alaska State Pension  
6 Corporation for the transfer to it of securities and assets of the retirement funds. The board shall  
7 promptly provide the revisor of statutes and the lieutenant governor with a copy of this resolution.

FISCAL NOTE

No. 1

Bill Version: CSHB 37(STA)

(H) Publish Date: 2/19/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Title: Alaska State Pension Corporation

Department Affected: Revenue

BRU: Alaska State Pension Corp.

Component: \_\_\_\_\_

Sponsor: Ulmer

Requestor: House State Affairs

Component Serial No.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	9,846.2	19,692.4	19,692.4	19,692.4	19,692.4	19,692.4
<b>TOTAL OPERATING</b>	<b>9,846.2</b>	<b>19,692.4</b>	<b>19,692.4</b>	<b>19,692.4</b>	<b>19,692.4</b>	<b>19,692.4</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: Thousands of Dollars

GENERAL FUND						
FEDERAL FUNDS						
OTHER	9,846.2	19,692.4	19,692.4	19,692.4	19,692.4	19,692.4
<b>TOTAL</b>	<b>9,846.2</b>	<b>19,692.4</b>	<b>19,692.4</b>	<b>19,692.4</b>	<b>19,692.4</b>	<b>19,692.4</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: FY 92 - 97 are the amounts deleted from the Treasury budget on the attached fiscal note. Net incremental cost is zero.

Prepared by: Milton B. Barker MB

Phone: 465-2350

Division: Treasury

Date: \_\_\_\_\_

Approved by Commissioner: 

Agency: Revenue

Distribution by preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev 10/90

COMMITTEE COPY

FISCAL NOTE

No. 2

Bill Version: CSHB 37(STA)

(H) Publish Date: 2/19/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: Revenue

Title: Alaska State Pension Corporation

BRU: Treasury

Component: \_\_\_\_\_

Sponsor: Ulmer

Component Serial No.

Requestor: House State Affairs

	1	2	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	(9,846.2)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)
TOTAL OPERATING	(9,846.2)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	(9,846.2)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)
TOTAL	(9,846.2)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)	(19,692.4)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: Alaska State Pension Corporation is assumed to take over retirement fund investments January 1, 1992. FY 92 figures are half the amounts requested in Treasury's FY 92 budget for retirement funds. FY 93- 97 are the full amount of FY 92 budget for retirement funds.

Prepared by: Milton B. Barker MB

Phone: 465-2350

Division: Treasury

Date: \_\_\_\_\_

Approved by Commissioner: 

Agency: Revenue

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev 10/90

COMMITTEE COPY

Page 1 of 1

FISCAL NOTE

No. 3

Bill Version: CSHB 37(STA)

(H) Publish Date: 2/19/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: An Act Establishing the Alaska State Pension Corporation  
Sponsor: Ulmer  
Requester: \_\_\_\_\_

Department Affected: Administration  
BRU: Retirement & Benefits  
Component: Retirement & Benefits  
COMPONENT SERIAL NO. 64

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (attach a separate page if necessary)  
There is no measurable fiscal impact to the Division from this bill.

Prepared By: Gary M. Bader, Director *Gary M. Bader* Phone: 465-4470  
Division: Retirement and Benefits Date: 1/25/91  
Approved By Commissioner: *William J. Miller* Date: 1/28/91  
Agency: Administration

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies)

# Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM

February 22, 1991

TO: Rep. Mike Navarre, Co-Chair  
Rep. Eileen MacLean, Co-Chair  
House Finance Committee

FROM: Rep. Fran Ulmer

RE: HB 37, an act establishing the Alaska State Pension Corporation; relating to management and investment of state pension funds and other state funds; and providing for an effective date.

HB 37 represents the latest in several attempts over the past several years to give the state's retirement funds greater security. Today, I believe this legislation is especially prudent considering the volatile condition of our financial markets and the recent spate of investment scandals that have put pension funds of other states and organizations in considerable peril.

Today the state is responsible for over 4 billion dollars in retirement funds that are managed by a single person, the Commissioner of Revenue. This bill would place those funds under the guidance of the Alaska State Pension Corporation, its board of trustees and a professional advisory council. Additionally, I believe this corporation will strengthen our management of retirement funds by giving the members of these programs representation. In the future HB 37 may also lead to the integration of benefit administration with investment duties.

District 4B — Juneau

P.O. Box V • Juneau, Alaska 99811-3100 • (907) 465-4947



Recycled Paper

The Alaska State Pension Corporation

1) is a public corporation established to manage the PERS, TRS, SBS Judicial and Military retirement system funds and other state funds, upon agreement.

2) allows for beneficiary and employer representation through a 9 member board of trustees, composed of: 5 elected members, 2 seats nominated by employers and appointed by the governor, the Commissioner of Revenue and 1 appointed member nominated by the other 8 trustees.

3) provides for an Investment Advisory Council, composed of 3 to 5 professionals, that would recommend investment policies, assist in the selection of performance consultants and advise on the overall financial well being of the Corporation.

4) requires that all named fiduciaries adhere to the Prudent Investor Rule and that all applicable transactions follow the General Accepted Accounting Principals.

5) requires the board to employ and fix compensation for an executive director. The executive director may appoint employees. All are exempt from the personnel code.

6) provides for legislative, executive, member and employer oversight through reporting and through use of outside performance evaluators and auditors.

7) The following organizations have endorsed the concepts embodied in this legislation:

NEA - Alaska  
Alaska Municipal League  
Alaska State Employees Association  
University of Alaska - Fairbanks  
TRS Board Members  
PERS Board Members  
AARP - Alaska

Thank you for your prompt consideration of this important legislation. Please contact my office if you need any additional information.

a:hb37fin.mem

MEMORANDUM

February 20, 1991

TO: Rep. Mike Navarre, Co-chair  
Rep. Eileen MacLean, Co-chair  
House Finance Committee

FROM: Rep. Fran Wimer

RE: Sectional Analysis of HB 37.

The following is a sectional analysis of HB 37, An act establishing the Alaska State Pension Corporation; relating to management and investment of state pension funds and other state funds; and providing for an effective date.

SECTION 1/FINDINGS; Recommendation that the ASPC should integrate the investment of pension funds with retirement benefit administration responsibilities for all state related pension funds, including EPORS, when prudent.

SECTION 2; creates the Alaska State Pension Corporation.

Sec. 37.10.210 establishes the corporation as a public corporation. Subsection (b) sets out the nine voting trustees, four of which are elected by members of the retirement systems, one elected from the supplemental benefits system, two appointed by the governor from a list submitted by employers, one appointed by the governor after being nominated by the other eight trustees, and the commissioner or Revenue. Subsection (c) sets out staggered four year terms for trustees. Subsections (d) and (e) sets out removal or trustees and filling of vacancy. Subsection (f) (g) and (h) set out board organization: board elects chair annually, five trustees constitute a quorum and designees are not allowed. Subsection (i) requires trustees to participate in financial education training.

Sec. 37.10.220 sets out the powers and duties of the board, including establishing investment policies for the funds it is responsible for, submitting investment reports to the legislature, employers, appropriate boards, contracting for external audits, employers outside investment advisors, employing legal counsel, permitting trustees to enter agreement to assume responsibility for other state funds upon agreement with the managers of those funds.

Sec. 37.10.230 sets out conflict of interest provisions for the fiduciaries and allows to designate other staff who must comply with these provisions. Under this section, the board shall adopt regulations to restrict fiduciaries and any designated staff, from having a substantial interest in corporate assets. Subsection (c) identifies that failure to disclose conflicts is grounds for termination of employment.

Sec. 37.10.240 exempts the board from the ADMINISTRATIVE PROCEDURES Act but requires compliance with the Open Meetings Law

Sec. 37.10.260 requires the boards to employ and fix the compensation for an executive director who must meet qualifications as set in statute. The executive director may appoint employees with approval of the board. Subsection (b) requires the board to adopt regulations restricting from financial interest in those companies which provide service to the corporation. All employees are exempt from the personnel act but are subject to the ethics act.

Sec. 37.10.270 requires the board to appoint an investment advisory council composed of at least 3 and not more than 5 members who must meet qualifications. Subsection (b) staggered three year terms. Subsection (c) allows the board to establish compensation for advisory board members. Subsection (d) sets out duties of the council to include reviewing investments, recommending investment policy, advising on selection of consultants and auditors. Subsection (e) allows the council to contract with other state agencies to provide advice.

Sec. 37.10.280 requires the board to protect assets held in trust and its own assets , services and employees by purchasing insurance or arranging for self insurance.

Sec 37.10.290 permits banks to give sureties to the corporation or to enter collateral agreements on approved securities.

37.10.300 prohibits the corporation from engaging in commercial banking activity, from acting as a depository or trustee for a private person and from acting as a lender to a private person of money from any source other than state fund under its own management.

Sec. 37.10.310 limits the states responsibility for liabilities of the corporation.

Sec. 37.10.390 defines board, corporation and retirement systems.

SECTION 3 AS 06.05.025 Amends the banking code to allow the board of trustees or the legislative auditor to request an examination of the corporation by the Division of Banking, Securities and Corporations.

SECTION 4; substitutes the corporation for the Commissioner of Revenue in reporting on the condition of the teacher's retirement system (TRS) and requires the corporation to provides the TRS board with and annual external performance review of the trust fund.

SECTION 5; makes the corporation the fiduciary of the TRS fund in place of the Commissioner of Revenue.

SECTION 6; substitutes the corporation for the commissioner of revenue in management of the judicial retirement trust.

SECTION 7; substitutes the corporation for the Commissioner of Revenue in management and investment of the Alaska National Guard and Alaska Naval Militia retirement fund.

SECTIONS 8 AND 9; exempt the corporation from the procurement code but requires the board of trustees to adopt comparable procedures.

SECTION 10; substitutes the corporation for the Commissioner of Revenue in the section that sets out the powers and duties of the fiduciary that invests and manages state funds. In paragraph (a) (8) the bill require accounting records to be kept in accordance with generally accepted accounting principles. Subsection (c) requires the fiduciary to exercise the Prudent Investor Rule. Subsection (e) requires the state to defend and indemnify the fiduciary if the fiduciary performed in good faith. Subsection (f) defines fiduciary to include trustee, officer of the corporation and any other person who exercises control over corporation assets.

SECTION 11; places employees of the corporation in the exempt service.

SECTION 12; adds the investment and management of program receipts from Supplemental Benefits System (SBS) as a responsibility of the corporation.

SECTIONS 13 and 14; substitutes the corporation for the Commissioner of Revenue in the management and investment of public employee retirement fund (PERS).

SECTION 15; adds the members of the Alaska State Pension Corporation to coverage of the conflict of interest statutes.

SECTION 16; amends the duties of the Department of Revenue to reflect the changes made by the bill.

SECTION 17; is a transition section.

SECTION 18; sets out the initial terms of the board to hold organizational meetings as soon as the quorum has been appointed/elected.

SECTION 19; sets July 1, 1991 as the effective date for board organization.

SECTION 20; sets July 1, 1992, or a later date established by resolution of the trustees, as the effective date for the corporation to begin managing and investing assets.

DEPARTMENT OF REVENUE  
POSITION PAPER

Senate Bill 18  
House Bill 37  
Alaska State Pension Corporation

The Department of Revenue supports the basic concepts embodied in this legislation for the following reasons:

1. a board to govern investments would improve accountability, public visibility, and continuity; and
2. the Department believes the fiduciary responsibility should not solely rest with the Commission of Revenue.

Professionalism of the Board

Preferable to an investment advisory council would be the inclusion of a minority of investment professionals on the board of the proposed corporation. It is difficult to see how exclusion of professionals as board members would be in the best interests of beneficiaries, given the fact that there is a clearly defined objective of maximizing investment earnings subject to prudence. Inclusion of professionals would seem to be an important edge in order to provide competitive investment results.

Legislative Audit stated in their June 19, 1989 Special Report on PERS and TRS that, "Some members of the board of trustees should have the necessary professional skills." Greta Marshall, former Chief Investment Officer of the California Public Employees Retirement System, in her September 17, 1990 comments to the PERS and TRS Boards (enclosed) strongly recommended placing professionals on the board. Professionals would be chief investment officers or trustees of other institutional investment funds.

Experience seems to indicate a real danger of advisory committees (as an avenue for professional input) falling into disuse. The best approach for assuring the continuing vitality of a professional component for board decision-making is inclusion of such persons on the board.

Integration of Benefits Administration with Investments

The benefits of integrating pension administration with investment need to be more clearly identified and considered in light of the resulting loss of focus and attention on investments by the board, management, and participants. It is questionable whether any possible benefits would compare with the potential adverse effects on returns on investments of over \$4.4 billion.

One of the Department's main concerns in advocating a separate organization for investment management has been to increase the visibility of, focus on, and attention to investments. For precisely these reasons, the Department both sought to extricate investment management from line agency status and opposed mixing it with the Permanent Fund.

The importance of these concerns is reflected in the fact that many of the nation's leading institutional investors have been spinning-off their investment management activities into separate organizations. Major banks with which the Department is acquainted, such as Citibank, Morgan Guaranty, Security Pacific, and Bank of America, have moved the investment management function out of their trust departments into separate subsidiaries. As indicated in the enclosed news articles, Stanford, Harvard, Princeton, and Duke Universities have done likewise. These developments are part of the trend during the 1980's in the corporate world to downsize, restructure, and spin-off corporate functions to achieve more intensive management focus and ultimately profitability. This was a reaction to the unwieldy conglomerates created in the 1970's.

Integration does not seem to be required for purposes of coordinating administrative and investment functions. The Department is able to identify very little activity that involves joint action or direct interaction of the Departments of Revenue and Administration. Most such activity consists of consolidated reporting in the PERS and TRS newsletters, audits, actuarial reports, and annual reports. In these areas, coordination is achieved as required without resorting to organizational amalgamation. The Department of Revenue's advice is provided as to two of the several assumptions used in the actuary's report--namely, the assumed investment earnings rate and the method for valuation of investments. The audit of the retirement systems as a whole, done by auditors retained by the Division of Retirement and Benefits, relies on the audits of investment assets performed by the Treasury Division's auditors. Regulations recently adopted by the Department of Revenue require the submission of various investment reports as well as an annual oral presentation of the reports and investment policy to the retirement boards. This is and has been the practice. These joint activities are sporadic and do not require daily or ongoing interaction.

Another prominent, highly successful example of the separation of benefit and investment management organizationally is that of the Department of Revenue's Permanent Fund Dividend Division and the Alaska Permanent Fund Corporation.

The one really critical link between the liabilities (benefits) side of the systems and the assets (investment) side is the long-range cash flow projections of the systems done by the systems' actuary. These are performed annually and included in the actuary's report. As Gordon S. Harrison stated in his September 27, 1990 memorandum,

"(Investment) policies should reflect the characteristics of the fund and its participants, such as the size of the fund, promised benefit scales, employer and employee contribution rates, liquidity demands by retirees, investment returns, and the turnover rate, age profile, life expectancies and salary increases of members."

The cash flow projections specifically incorporate all of these characteristics and are used by the Department to establish investment policy for the retirement funds.

Should unforeseen needs arise for coordination, avenues are available to meet the needs. Benefits administration is governed through public meetings of the retirement boards. The Department of Revenue receives meeting agendas and can attend the meetings like any public person would, or may be called upon by the Department of Administration or the boards to appear. The Department rarely has occasion to attend the boards' benefit meetings. Establishment of an investment corporation would afford similar access to the Department of Administration with respect to investment matters. This is in addition to direct consultation between the departments when needed.

BY: *C. C. Hester*

DATE: 2.11.91

BY: *[Signature]*  
Department of Revenue

DATE: 2-11-91

# Alaska Municipal League

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## Policy Statement 1991

Adopted at the Business Meeting  
of the 40th Anniversary Local Government Conference  
of the  
Alaska Municipal League  
Anchorage, Alaska  
November 16, 1990



retirement benefits. Additionally, in order to assist municipalities and the Legislature in evaluating changes to the retirement systems, fiscal notes accompanying such legislation should include an analysis of the fiscal impact on each of the participating municipalities.

**2. Separate PERS/TRS Corporation:** The League supports the establishment of a separate corporation for the management and investment of state trust funds, including the trust funds of the Public Employees' Retirement System and the Teachers' Retirement System, insofar as the board of the corporation includes representatives of trust beneficiaries and employers. The League urges that legislation establishing such a corporation include a provision that foreclosed real property held as assets by funds managed by the corporation be subject to municipal property taxes.

Alaskan municipalities make over half of all employer contributions to the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) and are directly affected by the performance of these funds because of the effect fund earnings have on employer contribution rates and, thus, on local tax rates. At present, both PERS and TRS funds are managed by the Department of Revenue, with the Commissioner of the Department as the sole fiduciary.

Creation of a separate corporation would give visibility to and strengthen the trust status of these trust funds. It would increase accountability, continuity, and public disclosure for the investment management of the funds by establishing a board of directors as fiduciary, incorporating professional investment managers and trust administrators, as well as representatives of beneficiaries, on the corporation's board, and providing for the exercise of fiduciary powers through the forum of regularly scheduled public meetings rather than administrative actions. A corporation would give management the authority to act in a timely manner and compete fully with other professional institutional investors. It would also allow the trust fund managers to have direct access to various Federal Reserve System services, increasing the security, earnings, and efficiency of trust fund investments and reducing the costs for intermediary custodian bank services.

In keeping with the League's general policy opposing exemption from taxation of foreclosed real property held as assets by state and federal agencies, the League supports inclusion of a provision making such assets held by the new corporation subject to municipal taxation.

## **E. GOVERNMENT MANDATES**

The League urges passage of legislation that would require a government agency unilaterally transferring responsibility for a program to a municipality or imposing regulations on a municipality to reimburse the municipality for the costs of the transferred responsibility or regulations.

## Resolution of the Alaska Municipal League

### Resolution No. 91-8

#### A RESOLUTION SUPPORTING ESTABLISHMENT OF A CORPORATION TO MANAGE STATE TRUST FUNDS

WHEREAS, the Alaska Municipal League has reviewed and considered the establishment of a separate corporation for the management of state trust funds, including the Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS) trust funds, and

WHEREAS, PERS and TRS assets now total over \$4 billion and generate \$400 million or more of investment income annually, and

WHEREAS, the amount of income generated by PERS and TRS significantly affects employer contribution rates since employee contribution rates are fixed by statute, and

WHEREAS, Alaska municipalities make over half of all employer contributions to PERS and TRS, and

WHEREAS, PERS and TRS contribution rates have a direct impact on local tax rates, and

WHEREAS, the improvement in investment earnings that can be expected as a result of establishing a separate corporation would be of great importance to beneficiaries and employers as state petroleum revenues decline because an improvement of only 25 basis points (.025 percent) would be \$10 million, half of which would go to reduce municipal employer contributions, thus freeing up \$5 million for other municipal expenditures or permitting a .3 mill average reduction in property taxes for the typical Alaska municipality, and

WHEREAS, a separate corporation would give visibility to and strengthen the trust status of the PERS, TRS, and other trust funds, providing a corporate bulwark for the management of trust fund assets in the interests of beneficiaries and providing a clear mission to management in carrying out fiduciary responsibilities, and

WHEREAS, a separate corporation would increase accountability, continuity, and public disclosure for the investment management of the funds by:

1. establishing a board of directors in place of one person as fiduciary;
2. incorporating professional investment managers and trust administrators, as well as representatives of beneficiaries, on the corporation's board; and

3. providing for the exercise of fiduciary powers through the forum of regularly scheduled public meetings rather than administrative actions, and

WHEREAS, a corporate form would improve trust fund earnings by providing management the necessary authority to act in a timely manner and compete fully with other professional institutional investors in the dynamic world of financial markets, and

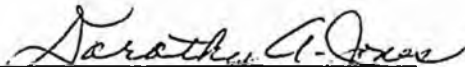
WHEREAS, a corporate form would meet Federal Reserve requirements for direct access to various Federal Reserve system services, including safekeeping and clearance of U.S. Treasury securities, wire transfers, and warrant redemption activities and direct access would significantly increase the security, earnings, and efficiency of trust fund investments and reduce the costs for intermediary custodian bank services;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League supports introduction, passage, and enactment into law of legislation that would provide for the establishment of a separate state corporation which would have, as its sole responsibility, the investment management of state trust funds and which would be governed by a board of directors that includes professionals in the field of investment management, representatives of trust beneficiaries, and employers.

BE IT FURTHER RESOLVED that the corporation should have the necessary independence and authority to fully realize its potential in managing investments, including the ability to determine its legal counsel, staff compensation, and procurement and administrative procedures and to access Federal Reserve services.

BE IT FURTHER RESOLVED that foreclosed real property held as assets by funds managed by the corporation should be subject to municipal property taxes.

Adopted this 16th day of November 1990 in Anchorage, Alaska.

  
Dorothy A. Jones, President

ATTEST:

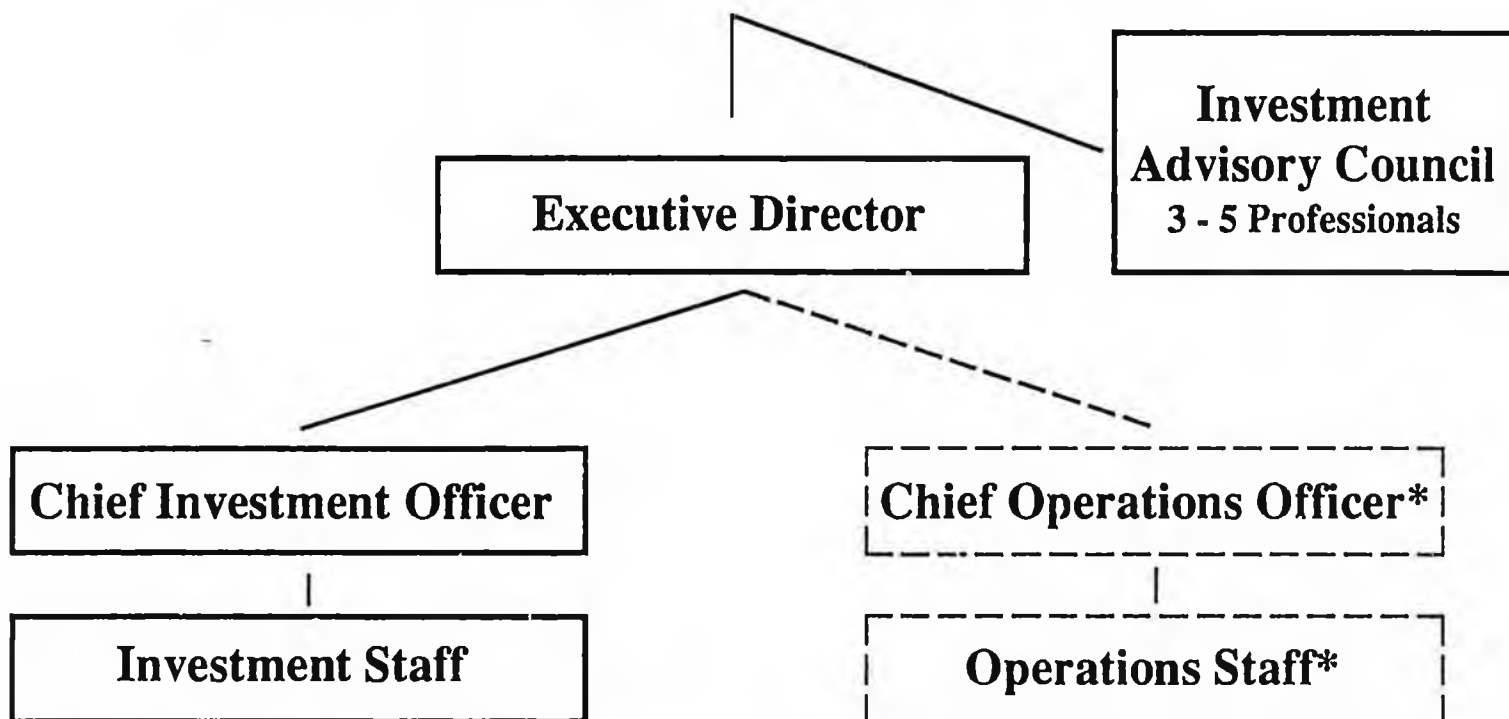
  
Scott A. Burgess, Executive Director

# Alaska State Pension Corporation (ASPC) Sponsor Substitute SB 18

A public corporation located in the  
Department of Revenue to manage the following funds:  
Public Employees Retirement System Fund \$2.74 billion  
Teachers Retirement System Fund \$1.70 billion  
Judicial Retirement System Fund \$28.67 million  
Military Retirement Fund \$3.9 million  
Supplemental Benefits System \$600 million  
Elected Public Officers Retirement System\*  
(subject to annual appropriation)

## ASPC Board of Trustees

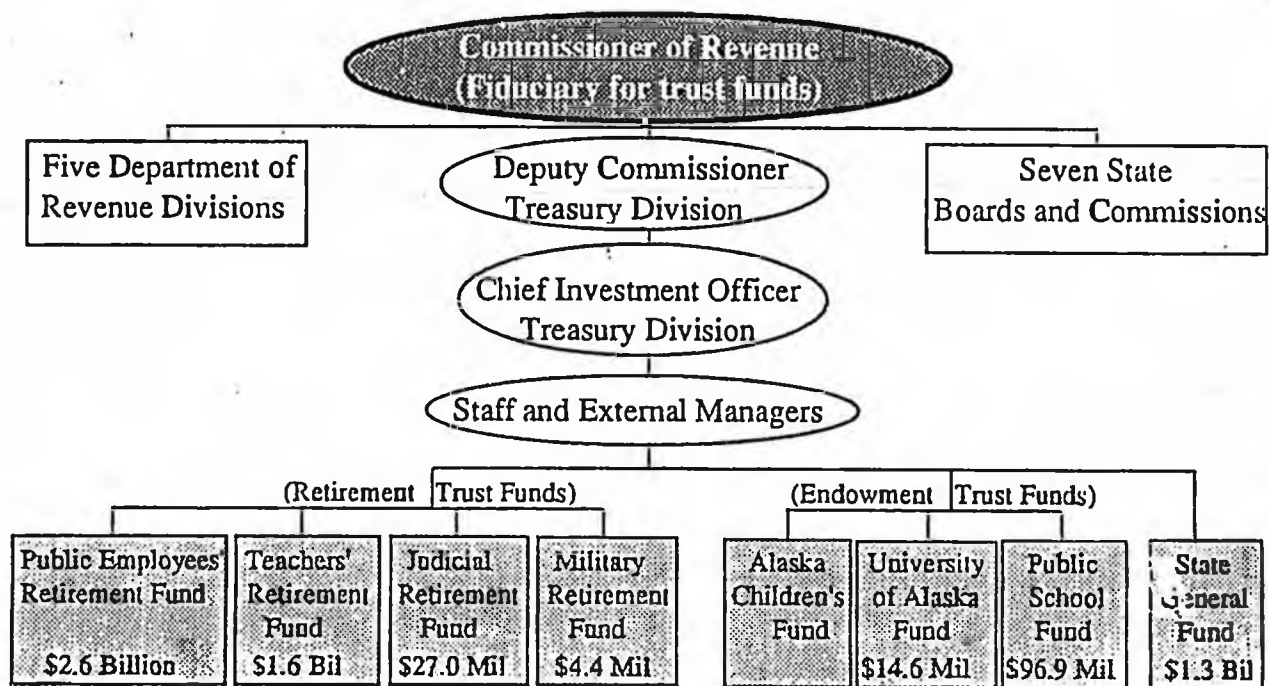
5 Member Seats (Elected)  
2 Employer Seats (Appointed)  
1 Department Commissioner  
1 Appointed Seat (Nominated by the 3 Trustees)



\* Once System is integrated to include retirement related operations. Active employee services would remain in Department of Administration

CURRENT LAW  
(FIGURE 1)

**INVESTMENT OF STATE FUNDS**



ONLY 6 STATES STILL HAVE A SOLE INDIVIDUAL AS FIDUCIARY.

page-  
m;

## ORGANIZATION AND FUNCTION

The Department of Revenue, Division of Treasury (Treasury) is responsible for, and has sole discretion over, the prudent investment and management of the Public Employees' Retirement Fund (PERS) and the Teachers' Retirement Fund (TRS).

Chapter 141, SLA 1988 amended PERS and TRS statutes by designating the funds as retirement trust funds and appointing the commissioner of Revenue as treasurer of the retirement systems and fiduciary of the funds. Under the amending legislation, the commissioner of Revenue shall:

1. Consider the status of the funds' investments and the system's liabilities on both a current and a probable future basis.
2. Determine the appropriate investment objectives for the funds.
3. Establish investment policies aimed at achieving the objectives.
4. Act only in regard to the best financial interests of the system's beneficiaries.

The amendments also repealed the "legal list" of investments the retirement funds were restricted to and placed upon the commissioner of Revenue, or his designee, the responsibility of fund fiduciary. Treasury also employs external investment managers who manage a substantial portion of the retirement funds.

Additionally, there are two boards which oversee the administrative aspects of the retirement systems. The Public Employees' Retirement Board is composed of five members, three of whom are members of the Department of Administration personnel board and two who are members of the system and elected by the membership of the system. The Teachers' Retirement Board consists of five members appointed by the governor. Both boards are mostly administrative in nature, being responsible for governing the regulatory aspects of the retirement systems.

The Alaska Permanent Fund is managed by an executive director, who reports to a six-member board of trustees appointed by the governor.

The UAF Staff Council approved the following at its Meeting #29 on December 7, 1990:

**MOTION PASSED** (unanimous approval)

The UAF Staff Council moves to endorse the following position paper regarding the PERS/TRS fund:

1. PERS funds should be managed and invested by a separate public corporation. This corporation should be developed for the specific purpose of managing the investment and benefit administration of public pension funds within the state of Alaska.
2. The Corporate Board of Trustees should have fiduciary responsibility for the PERS fund and any other public pension fund managed by the corporation.
3. The Board should be composed of: elected representatives of the beneficiaries of the various funds; the Commissioner of Revenue (nonvoting); and gubernatorial appointees from fund employers. There should be equal representation between employers and employees.
4. An Advisory Council of investment experts should be established by the Board. The purpose of the Council should be to provide information to the Board based on its cumulative expertise in investment matters.
5. The Board should be responsible for hiring an Executive Director for the corporation who in turn should hire his/her staff for administration of operational and investment matters.
6. Under no circumstances should the PERS funds be co-mingled with the Alaska Permanent Dividend Fund.

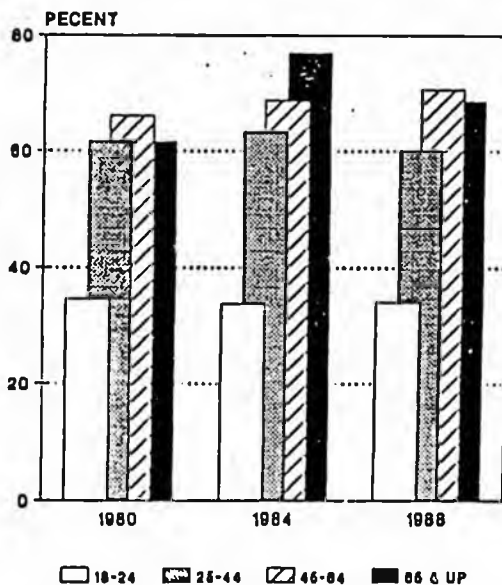
**RATIONALE:** PERS funds are currently managed by the Commissioner of Revenue, a gubernatorial appointee. This places the fund in possible jeopardy because of political pressure. Fiduciary responsibility for funds of this magnitude should not be placed in the hands of just one person. The management board for the PERS/TRS fund should be separate from the Permanent Fund

## OLDER VOTERS

Older people are generally eager to participate in all facets of political life. Older persons are often involved in registering voters, assisting voters in traveling to polls, and actually conducting poll operations on election day. They believe in the Eisenhower adage, "Politics should be the part-time profession of every citizen."

The voter turnout graph illustrates the participation rate of four age groups of Alaska voters in elections held between 1980 and 1988.

VOTER TURNOUT GRAPH



Prepared for AARP by Election Data Services

## 1991 ALASKA LEGISLATIVE PROGRAM

### PRIORITIES

#### HEALTH

- Increase access to appropriate and affordable health care for all Alaskans by:
  - advocating formulation of a health policy for Alaska
  - supporting concept of state-mandated insurance for the uninsured
  - seeking legislation and appropriations for a comprehensive and coordinated program of home-, community-, and institutionally-based services throughout the state
  - supporting availability of adequate health insurance for all, including those uninsured

#### ECONOMIC SECURITY AND BUDGET

- Strengthen programs which will provide economic security for all Alaskans by:
  - supporting legislation to stabilize the Longevity Bonus Program
  - advocating recognition of the economic and social value of the retirement community by supporting programs to encourage retirees to remain in Alaska
  - supporting full funding of present property tax relief to senior citizen homeowners and renters

#### SUPPORT ITEMS

- Support legislation to provide separate management of public pension funds
- Support efforts to improve availability of insurance by means of tort reform and/or increased regulations consistent with adequate consumer protection

SL1003AK(1090)

## ALASKA

State Legislative Committee

# 1991 FACTS & LEGISLATIVE PRIORITIES



American Association  
of Retired Persons



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

1411 W. 33RD AVENUE  
ANCHORAGE, ALASKA 99503  
(907) 274-0536

## JUNEAU OFFICE

105 MUNICIPAL WAY, SUITE 302  
JUNEAU, ALASKA 99801  
(907) 586-3090

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435

January 28, 1991

To: Representative Kubina, Chair  
Members; House State Affairs Committee

Re: *HB 37; An Act establishing the Alaska State Pension Corporation; relating to the management and investment of state pension funds and other state funds; and providing for an effective date.*

NEA-Alaska, representing members of both the TRS and PERS, supports the basic concepts contained in this legislation and commends the sponsor for this approach to the management of employee pension.

The transfer of this fiduciary responsibility from the Commissioner of Revenue to a public corporation will enhance constituent confidence in the integrity and security of their vested benefits.

We do have three (3) concerns which we wish to call to the attention of the Committee:

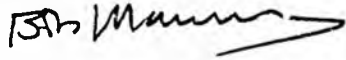
We recommend caution on the plan to assign, within two (2) years, responsibility for benefit administration to the ASPC. While it may be appropriate to have such a timeline as a goal it may also be wise to first attend to the management/investment responsibilities and defer the benefit administration to a later time. Both the TRS and the PERS currently have Boards with extensive benefit administration experience. Their present responsibilities in this area should continue for the time being.

We feel very strongly that the composition of the ASPC board of trustees must consist of a majority of members who are constituents of the retirement systems. Historically, both the TRS and the PERS have been administered by Boards comprised primarily of constituent members. The system has worked effectively and we feel that it should be continued. Members will have a greater level of confidence in a new investment/management system if a majority of the board members come from their constituency and that they be both active members and those now drawing benefits from the systems.

Another concern which may only need clarification pertains to the language in Section 2, page 6, lines 19-23, Sec. 37.10.320. On its surface, this language appears to possibly diminish rights guaranteed under Article 12, Section 7 of the Alaska Constitution. NEA-Alaska would obviously oppose such a change.

Thank you for your consideration of our position. We look forward to working with the Committee on this critical legislation.

Respectfully submitted,



Bob Manners  
Executive Director



Don Oberg  
President

cc: Representative Ulmer