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Official Business

COMMITTEE:

SENATE COMMUNITY & REGIONAL AFFAIRS

DATE:

FEB 18. 1992

SIGN-IN

Subject of meeting:

SB 374 INVESTMENT POOLS FOR PUBLIC ENTITIES

PLEASE PRINT!

NAME

ADDRESS

(MAILING) & (ZIP)

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

ROD R. MORGAN	Dept of Revenue	461 2-00	Revenue	N
Brian Andrews	DOR	5-2300	Revenue	Y
Scott Burgess		6-1325	AML	Y
LP Carroll	Commerce	465 2521	Banking / Securities	AT THE CHAIRS PLEASED
Marque Odland	Dept of Law	-3600	Law	asked

7-GS2031ND ✓
Cook
2/12/92

CS FOR SENATE BILL NO. 374 (CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered:

Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to investment pools for public entities; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. PURPOSE.** The purpose of this Act is to provide a means for certain public entities to
5 secure the maximum investment return consistent with the preservation of capital and liquidity by
6 pooling money temporarily available for investment. The Act allows for the establishment of

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

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

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

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

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

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

3 CHAPTER 23. INVESTMENT POOLS FOR PUBLIC ENTITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (1) an investment adviser registered under AS 45.55.030 and under 15 U.S.C.
14 80b-3 (Investment Advisers Act of 1940); or

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

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

23 Sec. 37.23.070. REPORTS; DISCLOSURE STATEMENT. (a) The manager of an
24 investment pool shall provide to the participating public entities a monthly report on the
25 allocation of income of investments of the pool and describing activities of the pool. At least
26 annually, the manager of an investment pool shall provide a disclosure statement on the
27 management and operation of the pool to each public entity participating in the pool. The
28 disclosure statement must include a copy of the annual audit required under AS 37.23.080.

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

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

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

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

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

11 Sec. 37.23.090. LIMITATION OF LIABILITY. The state and participating public
12 entities are not liable for any acts or omissions of an investment manager with whom the
13 participating entities have contracted for investment management and related services under
14 AS 37.23.050.

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

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

STATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/29/92

FURTHER: Finance

Date of 5-Day Notice: 2/6/92
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: _____

CRA Committee considered SB 374

"An Act relating to investment pools for public entities; and providing for an effective date."

and recommends:

replace with _____ CS SB374 _____ (CRA)

same title
 new title
 technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

Governor's bill with fiscal notes:

zero fiscal notes REN, CRA, DEC, ED

fiscal notes _____

DO PASS:

[Handwritten signatures]

OTHER RECOMMENDATIONS:

[Handwritten: True license - No fee]

[Handwritten: No fee]
Chair Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 374

Revision Date: 2/7/92
Title: An Act relating to investment pooling by public entities.
Sponsor: Senate Rules Committee
Requestor: Governor

Department Affected: Education
BRU: Executive Administration
Component: Commissioner's Office

COMPONENT SERIAL NO.

	1	8	9
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Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____
ANALYSIS: (Attach a separate page if necessary.)

Changes in SS3374 (CRA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
2/25/92 J. Covey
date Comte Aide (initial)

Prepared by: Mike Maher
Division: Commissioner's Office

Phone: 465-2800
Date: 2/7/92

Approved by Commissioner: Mike Maher
Agency: Education

Jerry Covey
Date: February 7, 1992

FISCAL NOTE

BILL NO. SB 374

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Revision Date: 2/6/92

Department Affected: Revenue

Title: An act relating to investment pools for public entities; and providing for an effective date.

BRU: Operations

Component: Treasury Management

Sponsor: Rules Committee

Component Serial No.

Requestor: Senator Frank

0	1	2	1
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Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND/Unrestricted						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS:

Prepared by: Brian C. Andrews *BA*

Phone: 465-2350

Division: Treasury

Date: February 6, 1992

Approved by Commissioner: *David Taylor*

Agency: Revenue

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

Rev 12/91

Changes in (SSB 374) (CRA)
reflect NO FISCAL CHANGE from the original
fiscal note. This fiscal note is appropriate.

Page ___ of ___

2/25/92
date

J. Fisher
Compte Aide (initial)

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 374

Revision Date: _____
Title: Investment pools for public entities
Sponsor: Senate Rules by Request of Governor
Requestor: (S) CRA Committee

Department Affected: Community and Regional Affairs
BRU: _____
Component: _____

COMPONENT SERIAL NO.

0	0	0	0
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						

REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact No impact

ANALYSIS: (Attach a separate page if necessary.)

Changes in SSB374 (CRA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
2/25/92 date [Signature] Comte Aide (initial)

Prepared By: Remond Henderson
Division: Administrative Services Division

Phone: 465-4708
Date: 2/10/92

Approved by Commissioner: E. Berry
Agency: Department of Community and Regional Affairs

Date: 2-10-92

STATE OF ALASKA
1992 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO. SB 374

Revision Date: _____

Department Affected: Commerce & Econ. Dev.

Title: Investment Pools for Public Entities

BRU: Banking, Securities & Corporations

Sponsor: Senate Rules

Component: _____

Requestor: _____

COMPONENT SERIAL NO.

1	2	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

Changes in SB 374 (CRA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

2/20/92 date [Signature] Comte Aide (initial)

Prepared By: Willis F. Kirkpatrick, Director

Phone: 465-2521

Division: Banking, Securities & Corporations

Date: _____

Approved by Commissioner: Glenn A. Olds

Agency: Department of Commerce & Economic Development

Date: 2-13-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Cfc., and Impacted Agency(ies).

Page 1 of 1



February 10, 1992

Position Paper

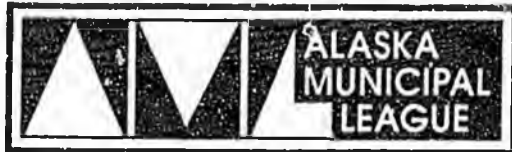
SB 374 - Investment Pools for Public Entities

The Alaska Municipal League supports SB 374, an Act relating to investment pools for public entities. Such legislation authorizing the formation and operation of investment pools by and for public entities, such as municipalities, school districts, and organizations composed of public entities, is a legislative priority of the Alaska Municipal League. SB 374 represents a compromise on behalf of the AML and the administration to meet their objections which resulted in Governor Hickel's veto of SB 182, introduced last year by the Senate Community and Regional Affairs Committee at the request of the League. See a copy of the AML's Municipal Platform statement on investment pool legislation attached.

The major difference between SB 374 and CS for SB 182 (Finance), the legislation approved by the legislature last year, is one of philosophy. As authorizing legislation requiring cooperative agreements, CS for SB 182 (Finance) relied on the agreements or contracts between the public entities (which do not include the State of Alaska and state funds) choosing to participate in an investment pool to spell out in detail investment criteria and policies. SB 374, which also requires such agreements, puts many of these criteria and policies, such as a list of authorized investments, collateralization and reporting requirements, and liability limitations, in statute. The result is a longer bill with perhaps less flexibility on the part of the pool to respond to the sometimes rapidly changing world of finance; but, the effect will be the same - an investment alternative for public entities to realize maximum returns on short-term, non-pension funds consistent with the preservation of capital and liquidity. SB 374 would allow municipalities, school districts, and the AML to form, operate, and invest in an investment pool for public entities.

The AML has spent considerable time and money researching and developing an investment pool and has been ready to proceed with the formation of a pool for public entities under this or similar legislation for over a year. The Alaska Municipal League urges the passage of SB 374 or similar legislation as soon as possible.

Attachment



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

Investment Pooling for Public Entities

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

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

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

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

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 374

Revision Date: _____

Department Affected: Community and Regional Affairs

Title: Investment pools for public entities

BRU: _____

Sponsor: Senate Rules by Request of Governor

Component: _____

Requestor: (S) CRA Committee

COMPONENT SERIAL NO.

0	0	0	0
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact No impact

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson
Division: Administrative Services Division

Phone: 465-4708
Date: 2/10/92

Approved by Commissioner: E. J. ...
Agency: Department of Community and Regional Affairs

Date: 2-10-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).
Rev 10/7/91

Fiscal Notes: CRA, REV, ED(2)

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 374

Revision Date: 2/6/92

Department Affected: Revenue

Title: An act relating to investment pools for public entities; and providing for an effective date.

BRU: Operations

Component: Treasury Management

Sponsor: Rules Committee

Component Serial No.

0	1	2	1
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Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND/Unrestricted						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS:

Prepared by: Brian C. Andrews

Phone: 465-2350

Division: Treasury

Date: February 6, 1992

Approved by Commissioner: David H. ...

Agency: Revenue

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 374

Revision Date: 2/7/92
Title: An Act relating to investment pooling by public entities.
Sponsor: Senate Rules Committee
Requestor: Governor

Department Affected: Education
BRU: Executive Administration
Component: Commissioner's Office

COMPONENT SERIAL NO.

	1	8	9
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Expenditures/Revenues: (Thousands of Dollars)

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

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Mike Maher
Division: Commissioner's Office

Phone: 465-2800
Date: 2/7/92

Approved by Commissioner: *Mike Maher*
Agency: Education

Jerry Covey
Date: February 7, 1992

1992 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: EDUCATION

Title: An act relating to investment pools

BRU: Executive Administration

Component: Commissioner's Office

Sponsor: Governor

Requestor: _____

COMPONENT SERIAL NO.

1	8	9
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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
 See Attached

Prepared By: Mike Maher Phone: 465-2800

Division: Commissioner's Office Date: 1/21/92

Approved by Commissioner: *Mike Maher*, Jerry Covay

Agency: Education Date: 1/21/92

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

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

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. SB 374

Revision Date: _____

Department Affected: Commerce & Econ. Dev.

Title: Investment Pools for Public Entities

BRU: Banking, Securities & Corporations

Sponsor: Senate Rules

Component: _____

Requestor: _____

COMPONENT SERIAL NO.

1	2	3
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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS (Attach a separate page if necessary.)

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521

Division: Banking, Securities & Corporations Date: _____

Approved by Commissioner: Glenn A. Olds _____

Agency: Department of Commerce & Economic Development Date: 2-13-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

Page 1 of 1

WFK/dg11452D-1/021392a

(Rev. 12/91)



February 10, 1992

Position Paper

SB 374 - Investment Pools for Public Entities

The Alaska Municipal League supports SB 374, an Act relating to investment pools for public entities. Such legislation authorizing the formation and operation of investment pools by and for public entities, such as municipalities, school districts, and organizations composed of public entities, is a legislative priority of the Alaska Municipal League. SB 374 represents a compromise on behalf of the AML and the administration to meet their objections which resulted in Governor Hickel's veto of SB 182, introduced last year by the Senate Community and Regional Affairs Committee at the request of the League. See a copy of the AML's Municipal Platform statement on investment pool legislation attached.

The major difference between SB 374 and CS for SB 182 (Finance), the legislation approved by the legislature last year, is one of philosophy. As authorizing legislation requiring cooperative agreements, CS for SB 182 (Finance) relied on the agreements or contracts between the public entities (which do not include the State of Alaska and state funds) choosing to participate in an investment pool to spell out in detail investment criteria and policies. SB 374, which also requires such agreements, puts many of these criteria and policies, such as a list of authorized investments, collateralization and reporting requirements, and liability limitations, in statute. The result is a longer bill with perhaps less flexibility on the part of the pool to respond to the sometimes rapidly changing world of finance; but, the effect will be the same - an investment alternative for public entities to realize maximum returns on short-term, non-pension funds consistent with the preservation of capital and liquidity. SB 374 would allow municipalities, school districts, and the AML to form, operate, and invest in an investment pool for public entities.

The AML has spent considerable time and money researching and developing an investment pool and has been ready to proceed with the formation of a pool for public entities under this or similar legislation for over a year. The Alaska Municipal League urges the passage of SB 374 or similar legislation as soon as possible.

Attachment



Investment Pooling for Public Entities

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

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

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

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

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

WALTER J. HICKEL
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 18, 1991

The Honorable Richard Eliason
President of the Senate
P.O. Box V
Juneau, AK 99811

Dear President Eliason:

Under art. II, sec. 15 of the Alaska Constitution, I have vetoed Committee Substitute for Senate Bill No. 182 (FIN), which would allow public entities within the state to form investment pools. The public entities may also form a nonprofit corporation to operate an investment pool.

I believe the concept of an investment pool has merit. Rural and urban communities and other public entities of this state could achieve financial benefit by pooling their money for increased investment earnings. However, this bill exposes those same entities and the state itself to undue risk of financial loss.

The bill does not include specific investment objectives and guidelines. It uses the term "prudent investor rule," but this term is only a guideline and has interpretive application. For example, it was pointed out in the April 1991 issue of Governing that "in the modern history of governmental investing, hundreds of millions of public dollars have been lost on long-term U.S. Treasury Bonds that were bought with short-term money." The article points out that this resulted from not having an investment policy that imposes maturities or other restrictions on investments. That same article discusses the millions of dollars that have been lost by U.S. cities due to improper collateralization procedures. The State of Oregon is one of 28 states which provides for investment pools, however, Oregon has several pages of statutes governing the operation of its investment pool.

The question of liability is also of concern. Neither this bill nor AS 10.20 adequately addresses the liability of a nonprofit corporation formed under this bill. Regional Education

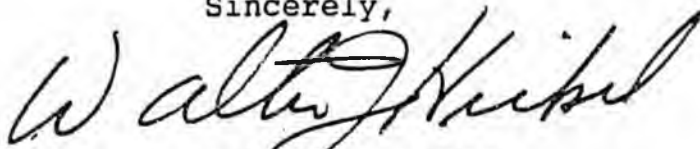
CS SB 182(FIN) Veto Letter 6/18/91

Attendance Areas (REAA) would be included in the definition of a public entity and may participate in a pool. REAA's are not separate legal entities from the state which raises particular concerns as to the ultimate liability of the state for REAA participants in investment pools. Furthermore, the state contributes substantially to the cost of education throughout the state and contributes to other public entities in the form of revenue sharing, municipal assistance, and grants. The state may be accepting additional liability if it statutorily provides for investment pools without setting forth specific investment objectives and guidelines to help minimize the risk of loss.

This bill does not allow the state to participate in a pool either as a participant or as a manager. Out of 28 states that provide for investment pools, 24 are state operated. The Commissioner of Revenue estimates that the Department of Revenue, Treasury Division could operate an investment pool for under 20 basis points, which is 1/5 of 1%. Treasury has all required procedures in place to operate a relatively risk-free low cost investment pool for the benefit of Alaska's public entities.

Because investment pooling has merit, Department of Revenue will work in the months ahead on legislation which provides for investment pools, taking into consideration the points discussed above.

Sincerely,

A handwritten signature in cursive script, reading "Walter J. Hickel".

Walter J. Hickel
Governor

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
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Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 22, 1991

SUBJECT: Investment Pools for Public Entities (CSSB 182(CRA))

TO: Senator Arliss Sturgulewski

FROM: Tamara Brandt Cook
Director *TBC*

CSSB 182(CRA) permits municipalities and school districts to form investment pools under which the funds of the public entities are administered and invested jointly. You have asked what the implications are regarding the state's financial responsibility in the event that an investment pool suffers financial losses.

As a matter of law, losses experienced by an investment pool would not create any particular liability on the part of the state. However, as a practical matter the state is hardly likely to stand by and allow a municipality to sink into financial ruin. With respect to school districts, of course, there exists the additional constitutional responsibility to maintain a system of public education. These considerations exist completely aside from the question of an investment pool, although, to the extent that the investment pool provides an opportunity for larger losses simply because a pool will involve larger amounts of money, I suppose, the cause for concern may increase. This would have to be looked into by someone with financial expertise.

Note, however, that with respect to municipalities CSSB 182(CRA) may not substantially change existing law. AS 29.35.010(13) already grants every municipality the authority " . . . to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States. . ." Since it is quite possible that municipalities could form investment pools right now under this provision of law, it is hard to argue that CSSB 182(CRA) substantially changes the state's potential responsibility in situations involving investment losses of municipal funds.

TBC:gc
91-167 jc

276 - 6401

not exercised - ^{tested} semi const.

large amounts of money - high degree of continuity
specific authority will help tax rule

AML another entity

INTRODUCTION AND REFERENCE OF SENATE BILLS

SB 373

SENATE BILL NO. 373 by Senators Duncan, Zhaxoff, entitled:

"An Act establishing a loan guarantee and interest rate subsidy program for assistive technology."

was read the first time and referred to the Health, Education and Social Services Committee and the Finance Committee.

SB 374

SENATE BILL NO. 374 by the Senate Rules Committee by request of the Governor, entitled:

"An Act relating to investment pools for public entities; and providing for an effective date."

was read the first time and referred to the Community and Regional Affairs Committee and the Finance Committee.

Zero fiscal note published today from Department of Education.

Governor's transmittal letter dated January 29:

Dear President Eliason:

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

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

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

SB 374 cont'd

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

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

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

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

Sincerely,

/s/
Walter J. Hickel
Governor

SB 375

SENATE BILL NO. 375 by Senators Hoffman, Rodey, entitled: