

HJR

50

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HJR50

Revision Date (Note if correction) _____ Dept. Affected Office of the Governor
 Title Const. Amend: Relating to a public BRU Elective Operations
corporation to manage the permanent fund Component Elections
 Sponsor Representative James
 Requester House State Affairs Committee Component Serial No. #21

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual	3.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	3.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	3.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	3.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$56.0.

Prepared by Gail Fenumiai *Gail Fenumiai* Phone 465-3935
 Division Division of Elections Date 1/23/98
 Approved by C. Lt. Governor Fran Ulmer *Fran Ulmer* Date 1/23/98
 Agency Office of the Lieutenant Governor

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HOUSE BILL NO. 81
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JAMES

Introduced: 1/22/97

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to the members of the board and staff of the Alaska Permanent Fund Corporation."

BE IT ENACTED BY THE STATE OF ALASKA:

* Section 1. AS 37.13.050(a) is amended to read:

(a) The Board of Trustees of the Alaska Permanent Fund Corporation consists of seven [SIX] members appointed by the governor. Two of the members must be heads of principal departments of state government, one of whom shall be the commissioner of revenue. Five [FOUR] members shall be appointed by the governor from the public and may not hold any other state or federal office, position, or employment, either elective or appointive, except as a member of the armed forces of either the United States or of this state.

* Sec. 2. AS 37.13.050(b) is amended to read:

(b) The [FOUR] public members of the board must have recognized competence and wide experience in finance, investments, or other business management-related fields, and at least one of the public members must have recognized competence and experience in investment portfolio management.

* Sec. 3. AS 37.13.060 is amended to read:

Sec. 37.13.060. Term of office. The public members of the board shall be appointed for terms of four years, and they may be reappointed. The terms of the public members shall be staggered so that the terms of no more than two [ONE TERM OF A] public members expire [MEMBER EXPIRES] each year.

* Sec. 4. AS 37.13.070(a) is amended to read:

(a) The governor may remove a public member of the board from office only for cause. A removal by the governor must be in writing and must state the reason for the removal. A member who is removed by the governor may not participate in board business and may not be counted for purposes of establishing a quorum after the member receives written notice of removal from the governor. In this subsection, "cause" means

(1) incompetency, which is the inability or the unintentional or intentional failure to perform the duties of the trustee; or

(2) misfeasance or malfeasance in office, which includes the failure of the trustee to exercise prudent judgment in the affairs of the corporation or

intentionally taking action for reasons other than the financial best interest of the corporation.

* **Sec. 5.** AS 37.13 is amended by adding a new section to read:

Sec. 37.13.075. Limitations on governor. (a) The governor shall base the decision to appoint a board member solely on the financial best interest of the fund.

(b) The governor may not influence or attempt to influence the board to make an investment decision that violates prudent investment principles.

(c) Violation of this section constitutes a violation of AS 39.52.

* **Sec. 6.** AS 37.13.100 is amended to read:

Sec. 37.13.100. Corporation staff. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. **The executive director and other employees with investment responsibilities serve at the pleasure of the board, except that the board may enter into employment contracts that do not exceed two years' duration.** An employee of the corporation, including the executive director, may not be a member of the board. The executive director and the other employees of the board are in the exempt service under AS 39.25.

* **Sec. 7.** AS 37.13.120(a) is amended to read:

(a) The prudent-investor rule shall be applied by the board in the management and investment of fund assets. The prudent-investor rule as applied to investments of the fund means that, in making investments, the board shall exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. **Each board member has a fiduciary duty to the fund, and each member shall perform official actions solely in accordance with that duty.**



Alaska Permanent Fund Corporation
P.O. Box 25500 Juneau, Alaska 99802-5500
(907) 465-2047

June 10, 1996

The Honorable Tony Knowles
Governor, State of Alaska
State Capitol
Juneau, Alaska 99801

Dear Governor Knowles:

The Board of Trustees recommends that you allow Senate Bill 89 to become law. There are two principal reasons why the Board supports this legislation:

- the bill would assure Board continuity, making for a more experienced and capable Board over the long term; and
- the addition of a seventh member would enhance the overall expertise of the Board of Trustees.

Thank you for your consideration.

Sincerely,

Grace Berg Schaible

c: Board of Trustees
Byron I. Mallott, Executive Director

Valdez Bock Company

P.O. BOX 527

VALDEZ, ALASKA 99606

PH: (907) 835-4337

FAX: (907) 835-3856

January 30, 1997

The Honorable Jeannette James
Representative, House of
Representatives
State Capitol, Room No. 102
Juneau, Alaska 99801-1182

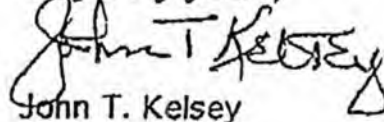
Dear Representative James:

This refers to your House Bill No. 81 relative to the Alaska Permanent Fund Board of Directors appointment process.

I wish to advise, as a past Chairman of subject board, I am in total support of your bill. The problems presented to new board members in the matter of "learning the system" and becoming comfortable with making important decisions of major proportions affect almost all citizens of the State of Alaska. Further, making major decisions without proper education on the operation of such a large fund could be damaging to future earnings that might very well impact budget considerations in the twenty-first century. Removing all board members, or even a majority of them, and appointing new members is unfair to those newly seated and could well adversely affect the state.

For the good of the State of Alaska and its citizenry, I urge the legislature to pass this bill.

Very truly yours,



John T. Kelsey



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 14, 1996

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

Under authority of art. II, sec. 15, of the Alaska Constitution, I have vetoed the following bill:

House CS for CS for Senate Bill 89(FIN)

"An Act relating to the members of the board and staff
of the Alaska Permanent Fund Corporation."

I have taken this action out of a strongly held belief that the trustees of the Alaska Permanent Fund Corporation must be answerable to Alaskans for the decisions they make in managing over \$18 billion of public money. This bill, among other things, would change existing law by making trustees removable only for very specific causes. Under existing law, the board serves at the pleasure of the governor and must answer to the governor for management decisions. The governor, in turn, must answer to the voters for the governor's stewardship of the Alaska Permanent Fund. It is in this very basic way that the Alaska Permanent Fund Corporation will remain responsive to the will of the people.

Sincerely,

A handwritten signature in cursive script that reads "Tony Knowles".

Tony Knowles
Governor

January 6, 1995

Mr. Carl F. Brady, Jr.
2100 Atwood Drive
Anchorage, AK 99517

Dear Mr. Brady:

Under the authority vested in me by AS 37.13.070(a) you are removed from the Board of Trustees of the Alaska Permanent Fund Corporation.

I am removing you because, as Governor, I am answerable to the people of Alaska if the Board of Trustees fails to measure up to their expectations. If I am answerable to the people, I must be confident that the existing board will carry out its statutory duties consistent with my philosophy of government. As for the existing board, I am not confident that it will act in a manner consistent with my philosophy. For this reason, your removal will take effect at noon on January 6, 1994.

Thank you for your past service and dedication. I wish you every success in your future endeavors.

Sincerely,

Tony Knowles
Governor

JEANNETTE JAMES
ALASKA PERMANENT FUND BOARD
1007 J. BARR
FAX (907) 488-1111

ALASKA PERMANENT FUND BOARD
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FAX (907) 488-1111

House (Of) Representatives

House Bill 81

Alaska Permanent Fund

Lamenting the tremendous turnover in the top management of the Alaska Permanent Fund with both the Knowles and Hickel Administrations, HB 81 is designed to take the politics out of the Permanent Fund Board of Directors appointment process.

House Bill 81, "An Act relating to the members of the board and staff of the Alaska Permanent Fund Corporation." is designed to create continuity within the board by restricting *any* Governor's ability to remove board members without cause and creating staggered terms.

Presently the members serve at the pleasure of the Governor, HB 81 allows the Governor to replace members only for cause. The staggered term provision allows for continuity.

Governor Knowles vetoed similar legislation passed in the Nineteenth Legislature, disregarding a resolution from the Permanent Fund's Board urging him not to do so.

With the Fund breaching \$20 billion, it's in the States best interest to protect the fund from the political whims of changing administrations.

HJR 50

HOUSE JOINT RESOLUTION NO. 50
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES JAMES, Vezey

Introduced: 1/21/98

Referred: State Affairs, Judiciary, Finance

A RESOLUTION

Proposing amendments to the Constitution of the State of Alaska relating to a public corporation established to manage the permanent fund.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** Article IX, sec. 15, Constitution of the State of Alaska, is amended to read:

Section 15. Alaska Permanent Fund. (a) At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.

* **Sec. 2.** Article IX, sec. 15, Constitution of the State of Alaska, is amended by adding a new subsection to read:

(b) The permanent fund shall be managed by a public corporation established by law. A member of the board of the corporation who is not the head of a principal department is subject to confirmation by a majority of the members of the legislature in joint session and may only be removed as provided by law.

* **Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

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State in Juneau
State Capitol
Juneau, Alaska
99801-1182
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FAX (907) 465-2381

House Of Representatives

House District 34

Statement of Intent

HJR 50, "Proposing amendments to the Constitution of the State of Alaska relating to a public corporation established to manage the permanent fund."

HJR 50 is in direct response to the Administration's constitutional concerns regarding HB 81, "An Act relating to the board and staff of the Alaska Permanent Fund Corporation."

The Department of Law explained that the Permanent Fund Board was created by statute to administer a constitutionally established fund, thus the only way to provide removal for cause would be through a constitutional amendment.

HJR 50 addresses this matter on point while striving for the goal of continuity, a reasonable practice to pursue when dealing with the State of Alaska's largest and most important asset.

HOUSE JOINT RESOLUTION NO. 50

Introduced/Offered/Amended: 1/21/98
BY REPRESENTATIVE(S) JAMES, Vezey

CURRENT STATUS: (H) FIN

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a
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