SB

379

SFIN

FILE

REPORTED OUT

APR 2 7 2004

SENATE FINANCE COMMITEE

SENATE FINANCE COMMITTEE REPORT

DATE: 04/15/04

FURTHER:

DATE TURNED IN TO OFFICE: 27 April 2004

Finance Committee considered SENATE BILL NO. 379

SB 379 PERM FUND BOARD PUBLIC MEMBER REMOVAL

"An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

and recommends:

[✓] be replaced with _____ CS SB 379 (FIN)

[ ] adopt previous _____ CS CS forthcoming (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by ___ _____ Committee

[ ] further referral to _____ _____ _____ Committee

Senate Bill:
[✓] Same Title
[ ] New Title

House Bill:
[ ] Same Title
[ ] Technical Title Change
[ ] New Title w/ SCR #_____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Law	2/4/04			✓	#2
Revenue	2/6/04			✓	#3

[ ] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
[signature]	✓			
[signature]			✓	
[signature]			✓	
[signature]	✓			
Ben Stevens	X			
COCHAIR: [signature]	✓			
COCHAIR: [signature]	✓			

REPORTED OUT

APR 27 2004

SENATE FINANCE COMMITEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 379
(S) Publish Date: 3/26/04

Revision Date/Time (Note if correction):
Title "An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund ..."
Sponsor Rules
Requester Governor

Dept. Affected: LAW
RDU CIVIL
Component Labor & State Affairs
Component No.

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This bill would give members of Alaska Permanent Fund Corporation Board of Trustees protection in that a member could only be removed for cause after a public hearing. Under existing law, the governor may remove a board member by sending a letter that sets out reasons. Existing law does not require the governor to state grounds sufficient for removal for cause. Removal for cause customarily involves removal for neglect of office, misconduct or malconduct, or conviction of a crime.

Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn A. Daughhetee, Director — Phone 465-3673
Division Administrative Services — Date/Time 2/4/04 8:41 AM
Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General — Date 2/4/2004
Agency Department of Law

(Revised 12/2003 OMB)

COMMITTEE COPY

REPORTED OUT

APR 27 2004

SENATE FINANCE COMMITEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSSB 379(JUD)
(S) Publish Date: 4/15/04

Revision Date/Time (Note if correction):

Title: Perm Fund Board Public Member Removal
Sponsor: Rules by Request
Requester: Senate Judiciary

Dept. Affected: Revenue
RDU: AK Permanent Fund Corporation
Component: AK Permanent Fund Corporation
Component No. 109

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal: [ ]

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

SB 379 would allow the removal of public board members only for cause before the expiration of their term. This bill will not affect the management of the Fund or the operating expenses.

Prepared by: Robert D. Storer, Executive Director — Phone 465-2047
Division: Alaska Permanent Fund Corporation — Date/Time 4/1/2004
Approved by: Steve Porter, Deputy Commissioner — Date 2/6/2004
Agency: Department of Revenue

(Revised 12/2003 OMB)

COMMITTEE COPY

ADOPTED

23-GS2142\H
Cook
4/26/04

CS FOR SENATE BILL NO. 379(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

"An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

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

*** Section 1.** 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.

*** Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

Alaska State Senate

Senate Finance Committee

Official Business

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 27 April 2004 TIME: 10:10am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
CS SB 379(FIN) 23-GS2142\H
Cook 4/26/04
no changes

Call if any questions

Thx
Mindy

OTHER ALASKA STATUTES "FOR CAUSE" REMOVAL PROVISIONS

AS 08.04.030	Board of Public Accountancy--"governor may, after hearing, remove any member for neglect of duty or other just cause"
AS 08.20.021	Board of Chiropractic Examiners--"may be removed from office by the governor for cause"
AS 08.63.040	Board of Marital and Family Therapy--"governor may only remove a member of the board for cause"
AS 08.80.105	Board of Pharmacy--"may be removed from office by the governor for cause"
AS 16.43.030	Alaska Commercial Fisheries Entry Commission--"governor may remove a commissioner from office for cause, including but not limited to incompetence, neglect of duty, or misconduct in office"
AS 18.85.040	Public Defender--"is subject to removal by the governor for good cause"
AS 23.05.360	Alaska Labor Relations Agency--"may be removed by the governor only for cause"
AS 24.20.251	Legislative Auditor--"when legislature is not in session, the auditor may be removed for cause by a majority vote of the Legislative Budget and Audit Committee"
AS 31.05.007	Alaska Oil and Gas Conservation Commission--"governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office"
AS 36.30.010	Chief Procurement Officer--"may be removed by the commissioner [of Administration] only for cause"
AS 37.10.210	Alaska State Pension Investment Board (ASPIB)--"governor may, by written notice to the trustee, remove an appointed trustee for cause"
AS 37.17.040	Alaska Science and Technology Foundation--"may be removed from the board by the governor for cause"
AS 39.25.010	Merit principle of state employment includes "separation for cause"

Provided by the Dept. of Law

AS 39.52.410	Violation of AS 39.52 (Executive Ethics Act) "is grounds for removal of a board or commission member for cause"
AS 42.04.020	Regulatory Commission of Alaska--"governor may remove a commissioner from office for cause including incompetence, neglect of duty, inability to serve, or misconduct in office or because the member, while serving on the commission, is convicted of a felony"
AS 43.05.415	Chief Administrative Law Judge--"may be removed from office by the commissioner [of Administration] only for good cause"
AS 44.21.258	Alaska Public Broadcasting Commission--"members may be removed only for cause"
AS 47.30.021	Alaska Mental Health Trust Authority--"governor may remove a member of the board only for cause, including incompetence, neglect of duty, misconduct in office, poor attendance, or lack of contribution to the board's work"
AS 47.30.663	Alaska Mental Health Board--"may be removed only for cause, including, but not limited to, poor attendance or lack of contribution to the board's work"

Subject: **SB 379--For cause**
Date: Mon, 26 Apr 2004 11:40:51 -0800
From: "Mike Barnhill" <Mike_Barnhill@law.state.ak.us>
To: <sheila_peterson@legis.state.ak.us>
CC: <rstorer@alaskapermfund.com>, <randy_ruaro@gov.state.ak.us>,
"David Marquez" <David_Marquez@law.state.ak.us>,
"Deborah Behr" <Deborah_Behr@law.state.ak.us>

Sheila:

Here's a paragraph on what constitutes "for cause" termination.

"For cause" termination requires a fair reason for the termination. The Alaska Supreme Court recently held that "'just cause' for discharge is one which is not for any arbitrary, capricious, or illegal reason and which is one based on facts (1) supported by substantial evidence and (2) reasonably believed by the employer to be true." Alaska State Empl. Assoc. v. State, 74 P.3 881, 883-84 (Alaska 2003). One commentator has concluded that it basically requires giving the employee a "fair shake". Hill & Westhoff, 47 Drake Law Rev. 399, 411 (1999).

Attached is a list of "for cause" statutes that was prepared in 2001, the last time this legislation was introduced.

Let me know if you need anything else. Thanks!

Other for cause stats.doc	**Name:** Other for cause stats.doc **Type:** WINWORD File (application/msword) **Encoding:** base64 **Download Status:** Not downloaded with message

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 379
(S) Publish Date: 3/26/04

Revision Date/Time (Note if correction):
Title: APFC Board Removal for Cause
Sponsor: Rules
Requester: Governor

Dept. Affected: Revenue
BRU: AK Permanent Fund Corporation
Component: AK Permanent Fund Corporation
Component No. 109

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal: [ ]

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This bill institutes the "removal for cause" threshold for the four public members of the Alaska Permanent Fund Corporation Board of Trustees. It would not affect the financial operations of the Permanent Fund and therefore does not generate any costs or savings to the Fund.

Prepared by: Robert D. Storer, Executive Director — Phone (907) 465-2047
Division: Alaska Permanent Fund Corporation — Date/Time 2/8/04 3:17 PM
Approved by: William Corbus, Commissioner — Date 2/8/2004
Agency: Department of Revenue

(Revised 9/2003 OMB)

COMMITTEE COPY

SB 379

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

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JUNEAU, ALASKA 99811-0001
(907) 465-3500
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 24, 2004

The Honorable Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to removal of public members of the Board of Trustees of the Alaska Permanent Fund Corporation.

This bill would provide that public members of the Board of Trustees may be removed only for cause. The bill would provide grounds for the removal of public members of the board which includes, neglect of duty, misconduct in office or conviction of certain misdemeanor or felony charges. The bill also grants Board members the opportunity to be heard at a public hearing and requires at least ten days notice of the hearing.

Under existing law, it is possible to remove all Board members at a change in administration. This bill would insulate the Alaska Permanent Fund from partisan politics by making it more likely that Board members would be retained until the expiration of their terms. The state invests a great deal in the experience and training provided to Board members. It is in our best interests to reap the full benefit of this investment. The Alaska Permanent Fund Corporation benefits from having experienced Board members direct policy for management of the Permanent Fund.

I urge your prompt and favorable action on this measure.

Sincerely yours,

Frank H. Murkowski
Governor

Enclosure

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/26/04

FURTHER: Finance

Date of 5-Day Notice: 4/1/04
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/15/04

Judiciary Committee considered SENATE BILL NO. 379

SB 379 PERM FUND BOARD PUBLIC MEMBER REMOVAL

"An Act providing that public members of the Board of Trustees of the Alaska Permanent Fund Corporation may be removed only for cause; and providing for an effective date."

and recommends:

[✓] be replaced with _____ CS SB 379 (JUD)

[ ] adopt previous _____ CS _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to _____ Committee

Senate Bill:
[✓] Same Title
[ ] New Title

House Bill:
[ ] Same Title
[ ] Technical Title Change
[ ] New Title w/ SCR #_____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	4/1			✓	3

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LAW	2/4			✓	2

[ ] APPROPRIATION - no fiscal note

	SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
Ellis	[signature]			X	
French	[signature]			X	
Ogan	[signature]			X	
Thomault	[signature]	✓			
Seekins	CHAIR: Ralph Seekins	✓			

SENATE FINANCE COMMITTEE

S I G N - I N

SB 379-PERM FUND BOARD PUBLIC MEMBER REMOVAL

NAME: Bob STORER Subject/Bill No: _____

Co./Dept./Title: APFC Phone: _____

Address: _____ Zip: _____

Do you wish to testify? ___Yes ___No ___Respond To Questions

NAME: Mike Barnhill Subject/Bill No: _____

Co./Dept./Title: Law Phone: _____

Address: _____ Zip: _____

Do you wish to testify? X Yes ___No ___Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? ___Yes ___No ___Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? ___Yes ___No ___Respond To Questions

SFC-04
SB 379

4/27/04