

SB

379

TESTIMONY OF SPONSOR
SB 379

Thank you Mr. Chair. My name is Mikhael, from the Department of Law, and I am pleased to present to the committee SB 379, on behalf of the Administration.

The concept of SB 379 is quite simple: it provides that public members of the APFC Board of Trustees may be removed only for cause. The bill contemplates that the types of permissible cause for which a Board member may be removed include:

- 1) inefficiency
- 2) neglect of duty
- 3) misconduct in office
- 4) conviction of a misdemeanor or felony involving moral turpitude

The bill provides for a measure of due process to the Board member, including a hearing before the governor or governor's designee, who will prepare a statement of findings and grounds for removal following the hearing.

The language of this bill is drawn from AS 16.05.280, which provides for similar grounds for removal and the same hearing process for board members of the Board of Fisheries.

The administration supports this bill because it will insulate the APFC Board from partisan politics when there is a change of administration. In doing so, it will enhance the institutional continuity of the Board and permit the Board to continue its important work without interruption when a change of administrations occurs.

Bob Storer, the executive director of the APFC, is here to elaborate further on the important policy reasons to enact this legislation. We thank you for your support and I would be happy to take any questions regarding the bill.

MEMORANDUM

State of Alaska

TO: Hon. Terry Miller
Lieutenant Governor

DATE: November 7, 1980

ATTN: Patty Ann Polley, Director
Division of Elections

FILE NO: J-66-001-81

TELEPHONE NO: 465-3665

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Restoration of vot-
ing rights to con-
victed felons

By:

Laura L. Davis 
Assistant Attorney General

You have requested that we respond to an inquiry by Akeela House of Anchorage regarding the scope of the disqualification of convicted felons from voting. We discuss the applicable provisions of the 1980 Election Code below. We will send copies of this memo and the attached information to Akeela House.

Attached is our memorandum dated August 14, 1968 on this subject. It provides background on the disqualification of convicted felons from voting in Alaska. The 1980 Election Code revised AS 15.05.030 to provide as follows:

LOSS AND RESTORATION OF VOTING RIGHTS. (a) A person convicted of a crime that constitutes a felony involving moral turpitude under state law may not vote in a state or municipal election from the date of his conviction through the date of the restoration of voting rights under this section. The right to vote withdrawn under this section is automatically restored upon the unconditional discharge of the person.

(b) The commissioner of health and social services shall establish procedures by which a person unconditionally discharged is advised of the restoration of voting rights withdrawn by a conviction. § 4, ch. 100, SLA 1980.

The new Election Code also amends AS 15.60.010 to include the following definitions of terms used in AS 15.05.030:

(8) "felony involving moral turpitude" includes those crimes which are immoral or wrong in themselves such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft, and forgery; . . .

(32) "unconditional discharge" means that a person is released from all disability arising under a conviction and sentence, including probation and parole. § 207, ch. 100, SLA 1980.

In our opinion, the new code has not changed the date upon which a voting disability or a felony conviction is imposed, but it has extended the disability to persons receiving suspended sentences. The disqualification attaches at the time of final judgment of conviction. A person is not disqualified from voting pending an appeal of a conviction. However, absent an appeal, a person who receives a suspended sentence, or a suspended imposition of sentence is disqualified until his or her unconditional discharge. Under the former law, such persons would not have been disqualified.

Under the new code, the definition of felony involving moral turpitude has been revised. The statutory definition mentions several specific crimes, and includes all crimes which are "immoral or wrong in themselves." The Criminal Division of the Department of Law in cooperation with the Division of Corrections of the Department of Health & Social Services, has developed a list of crimes contained in the revised Criminal Code which constitute the felonies involving moral turpitude. This list is attached for your guidance.

We hope that this answers your questions.

LLD/pjg

Enc.

cc w/enc.: Mike Dunham, Outreach Counselor
Akeela House - Anchorage

FELONIES INVOLVING MORAL TURPITUDE

Murder in the First Degree
Murder in the Second Degree
Manslaughter
Assault in the First Degree
Assault in the Second Degree
Kidnapping
Sexual Assault in the First Degree
Sexual Assault in the Second Degree
Sexual Assault in the Third Degree
Incest
Unlawful Exploitation of a Minor
Robbery in the First Degree
Robbery in the Second Degree
Extortion
Coercion
Theft in the First Degree
Theft in the Second Degree
Burglary in the First Degree
Burglary in the Second Degree
Arson in the First Degree
Arson in the Second Degree
Criminal Mischief in the First Degree
Criminal Mischief in the Second Degree
Forgery in the First Degree
Forgery in the Second Degree
Criminal Possession of a Forgery Device
Offering a False Instrument for Recording
Scheme to Defraud
Falsifying Business Records
Commercial Bribe Receiving
Commercial Bribery
Endangering the Welfare of a Minor
Bribery
Receiving a Bribe
Perjury
Perjury by Inconsistent Statements
Escape in the First Degree
Escape in the Second Degree
Promoting Contraband in the First Degree
Interference with Official Proceedings
Receiving a Bribe by a Witness or Juror
Jury Tampering
Misconduct by a Juror
Tampering with Physical Evidence
Hindering Prosecution in the First Degree
Terroristic Threatening
Riot
Criminal Possession of Explosives
Unlawful Furnishing of Explosives
Promoting Prostitution in the First Degree

SB 379



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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,

Handwritten signature of Frank H. Murkowski in black ink.
Frank H. Murkowski
Governor

Enclosure

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): _____ Dept. Affected: Revenue
 Title APFC Board Removal for Cause BRU AK Permanent Fund Corporation
 Component AK Permanent Fund Corporation
 Sponsor Rules
 Requester Governor 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						
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CHANGE IN REVENUES ()						
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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

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): _____ Dept. Affected: LAW
Title "An Act providing that public members of the RDU CIVIL
Board of Trustees of the Alaska Permanent Fund ..." Component Labor & State Affairs
Sponsor Rules
Requester Governor 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						
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CHANGE IN REVENUES ()						
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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. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 2/4/04 8:41 AM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/4/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 379
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Perm Fund Board Public RDU AK Permanent Fund Corporation
Member Removal Component AK Permanent Fund Corporation
 Sponsor Rules by Request
 Requester Senate Judiciary 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						
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CHANGE IN REVENUES ()						
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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