

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 822

1 * Sec. 5. AS 14.25.200(a) is amended to read:

2 (a) Except as provided in AS 29.45.030(a)(1), member [MEMBER] contributions and
3 other amounts held in the system on behalf of a member or other person who is or may become
4 eligible for benefits under the system are exempt from Alaska state and municipal taxes and are
5 not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge
6 of any kind, either voluntary or involuntary, before they are received by the person entitled to
7 the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer,
8 assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the
9 system is void. However, a member's right to receive benefits may be assigned under a qualified
10 domestic relations order.

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

12 (c) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] is the
13 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same powers
14 and duties under this section in regard to the judicial retirement trust fund as are provided in
15 AS 14.25.180.

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

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

20 * Sec. 8. AS 29.45.030(a) is amended to read:

21 (a) The following property is exempt from general taxation:

22 (1) municipal, state, or federally owned property, except that

23 (A) a private leasehold, contract, or other interest in the property is taxable
24 to the extent of the interest;

25 (B) property acquired by the Alaska State Pension Corporation
26 through foreclosure or deed in lieu of foreclosure and retained as an investment of
27 the corporation is taxable;

28 (2) household furniture and personal effects of members of a household;

29 (3) property used exclusively for nonprofit religious, charitable, cemetery,
30 hospital, or educational purposes;

31 (4) property of a nonbusiness organization composed entirely of persons with 90

1 days or more of active service in the armed forces of the United States whose conditions of
2 service and separation were other than dishonorable, or the property of an auxiliary of that
3 organization;

4 (5) money on deposit;

5 (6) the real property of certain residents of the state to the extent and subject to
6 the conditions provided in (e) of this section;

7 (7) real property or an interest in real property that is exempt from taxation under
8 43 U.S.C. 1620(d), as amended.

9 * Sec. 9. AS 29.45 is amended by adding a new section to read:

10 Sec. 29.45.295. COLLECTION OF DELINQUENT TAXES ON CERTAIN
11 GOVERNMENTAL PROPERTY. AS 29.45.300 - 29.45.490 do not apply to property taxable
12 under AS 29.45.030(a)(1)(B). A municipality may bring an action in the court of proper
13 jurisdiction to compel payment of property taxes due from the Alaska State Pension Corporation,
14 if the corporation does not pay the amount due within six months after the date that the taxes are
15 due.

16 * Sec. 10. AS 36.30.015(f) is amended to read:

17 (f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding
18 AS 18.56.088, [AND] the board of directors of the Alaska State Housing Authority, and the
19 board of trustees of the Alaska State Pension Corporation shall adopt regulations under the
20 Administrative Procedure Act (AS 44.62) to govern the procurement of supplies, services,
21 professional services, and construction for the respective public corporations. The regulations
22 must

23 (1) reflect competitive bidding principles and provide vendors reasonable and
24 equitable opportunities to participate in the procurement process; and

25 (2) include procurement methods to meet emergency and extraordinary
26 circumstances.

27 * Sec. 11. AS 36.30.850(b)(15) is amended to read:

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

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

2 (1) "agency"

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

6 (B) does not include

7 (i) the University of Alaska;

8 (ii) the Alaska State Housing Authority;

9 (iii) the Alaska Railroad Corporation;

10 (iv) the Alaska Housing Finance Corporation;

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

13 (vi) the Alaska State Pension Corporation;

14 * Sec. 13. AS 37.05.146 is amended to read:

15 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
16 and AS 37.07.080 "program receipts" means fees, charges, income earned on assets, and other
17 state money received by a state agency in connection with the performance of its functions; all
18 program receipts except the following are general fund program receipts:

19 (1) federal receipts;

20 (2) University of Alaska receipts (AS 14.40.491);

21 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
22 terms are restricted to a specific purpose;

23 (4) receipts of the following funds:

24 (A) highway working capital fund (AS 44.68.210);

25 (B) correctional industries fund (AS 33.32.020);

26 (C) loan funds;

27 (D) international airport revenue fund (AS 37.15.430);

28 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
29 the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity
30 Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010),
31 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial

- 1 Development and Export Authority (AS 44.88.020);
2 (F) fish and game fund (AS 16.05.100);
3 (G) school fund (AS 43.50.140);
4 (H) training and building fund (AS 23.20.130);
5 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
6 former AS 39.37);
7 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
8 (K) public school trust (AS 37.14.110);
9 (L) second injury fund (AS 23.30.040);
10 (M) fishermen's fund (AS 23.35.060);
11 (N) FICA administration fund (AS 39.30.050);
12 (O) receipts of the employee benefits program established under
13 AS 39.30.150 - 39.30.180;
14 (P) receipts of the deferred compensation program established under
15 AS 39.45.

16 * Sec. 14. AS 37.10.071 is amended to read:

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

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

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

22 (3) collect and deposit the principal of and income from owned or acquired
23 investments;

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

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

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

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

31 (8) maintain accounting records in accordance with generally accepted

1 [INVESTMENT] accounting principles;

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

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

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

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

11 (1) delegate investment, custodial, or depository authority on a discretionary or
12 nondiscretionary basis to officers or employees of the state or to independent firms, banks,
13 financial institutions, or trust companies, by designation through appointments, contracts, or
14 letters or authority;

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

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

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

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

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

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

31 (8) utilize consultants, advisors, custodians, investment services, and legal counsel

1 for assistance in investment matters on either a continuing or a limited-term basis and with or
2 without compensation;

3 (9) declare records to be confidential and exempt from AS 09.25.110 and
4 09.25.120 if the records contain information that discloses the particulars of the business or the
5 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

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

17 (d) In exercising investment, custodial, or depository powers or duties under this section,
18 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE
19 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this
20 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160, 37.-
21 14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE
22 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to
23 another person if the delegation is prudent under the applicable standard of prudence set out in
24 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary
25 [COMMISSIONER] or designee

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

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

31 (3) has knowledge of a breach of duty by another person, unless the fiduciary

1 [COMMISSIONER] or designee makes reasonable efforts under the circumstances to remedy the
2 breach.

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

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

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

11 (2) with respect to the Alaska State Pension Corporation, for investments
12 under AS 14.25.180.

13 (A) each trustee who serves on the corporation's board of directors:

14 (B) each officer of the corporation; and

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

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

20 * Sec. 15. AS 39.25.110(11) is amended by adding a new subparagraph to read:

21 (G) Alaska State Pension Corporation;

22 * Sec. 16. AS 39.30 is amended by adding a new section to read:

23 Sec. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS. The State
24 Pension Corporation is the fiduciary of the receipts of the employee benefits program established
25 under AS 39.30.150 - 39.30.180 and has the same powers and duties concerning the management
26 and investment in regard to those receipts as are provided under AS 14.25.180.

27 * Sec. 17. AS 39.35.020 is amended to read:

28 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible
29 for the administration of the system and for carrying out this chapter. In addition the
30 commissioner shall

31 (1) maintain the accounts of the system;

- 1 (2) make payments for the various purposes specified;
- 2 (3) submit periodic reports or statements of account that are needed;
- 3 (4) issue a statement of account to an employee requesting it showing the amount
- 4 of the employee's contributions to the system;
- 5 (5) as soon as possible after the close of each fiscal year, and not later than six
- 6 months after the close of each fiscal year, send to the governor, the legislature, and the board an
- 7 annual statement on the operations of the system containing
- 8 (A) a balance sheet;
- 9 (B) a statement of income and expenditures for the year;
- 10 (C) a report on an actuarial valuation of its assets and liabilities;
- 11 (D) a summary of assets held in the pension fund listed by the categories
- 12 of investment, as provided by the Alaska State Pension Corporation [COMMISSIONER
- 13 OF REVENUE];
- 14 (E) other statistical financial data that are necessary for a proper
- 15 understanding of the financial condition of the system and the result of its operations;
- 16 (6) establish a public employees retirement trust fund in which the assets of the
- 17 system shall be deposited and held;
- 18 (7) engage an independent certified public accountant to conduct an annual audit
- 19 of the system's accounts and the annual report of the system's financial condition and activity;
- 20 (8) report to the board concerning the condition and administration of the system
- 21 and distribute the report to the members of the system.

22 * Sec. 18. AS 39.35.080 is amended to read:

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

24 [COMMISSIONER OF REVENUE]. The Alaska State Pension Corporation

25 [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE]

26 fiduciary of the fund. The corporation [COMMISSIONER] has the same powers and duties

27 established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and

28 14.25.180.

29 * Sec. 19. AS 39.35.500 is amended to read:

30 Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM.

31 Except as provided in AS 29.45.030(a)(1)(B), employee [EMPLOYEE] contributions and other

1 amounts held in the system are exempt from Alaska state and local taxes. Amounts held on
2 behalf of, or payable to, any employee or other person who is or may become eligible for
3 benefits under the system are not subject to anticipation, alienation, sale, transfer, assignment,
4 pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being
5 received by the person entitled to the amount under the terms of the system. An attempt to
6 anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a
7 right to amounts held under the system is void. However, an employee's right to receive benefits
8 may be assigned under a qualified domestic relations order.

9 * Sec. 20. AS 39.45.030 is amended by adding a new subsection to read:

10 (c) Before investing the funds held under the state deferred compensation program, the
11 administrator of the program shall consult with the Alaska State Pension Corporation. The
12 commissioner shall reimburse the corporation for the cost of providing the advice.

13 * Sec. 21. AS 39.50.200(b) is amended by adding a new paragraph to read:

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

15 * Sec. 22. AS 44.25.020 is amended to read:

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

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

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

22 (3) register cattle brands;

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

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

27 * Sec. 23. TRANSITION. All litigation, hearings, investigations, and other proceedings pending
28 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,
29 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal
30 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended
31 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise

1 modified under the provisions of this Act. All contracts, rights, liabilities and obligations created by or
2 under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 26 of this
3 Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other property
4 of agencies of the state whose functions are transferred under this Act shall be transferred commensurate
5 with the provisions of this Act.

6 * Sec. 24. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by
7 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue and the
8 commissioner of administration, of the board of trustees of the Alaska State Pension Corporation shall
9 be as follows:

10 (1) one elected member and one appointed member shall serve terms of four years:

11 (2) one elected member shall serve a three-year term;

12 (3) one elected member and one appointed member shall serve terms of two years:

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

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

16 * Sec. 25. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 24 of this
17 Act take effect July 1, 1991.

18 * Sec. 26. Except as provided in sec. 25 of this Act, this Act takes effect on the earlier of July 1,
19 1992, or the date established by resolution of the board of trustees of the Alaska State Pension
20 Corporation for the transfer to it of securities and assets of the retirement funds. The board shall
21 promptly provide the revisor of statutes and the lieutenant governor with a copy of this resolution.

HOUSE FINANCE SUB-COMMITTEE ON HB 37 AND SB 18

Proposed changes to HCSCSSSB 18
(Changes highlighted on attached draft)

1. NINE TRUSTEES. Changes the Trustee seat previously nominated by the other 7 trustees and appointed by the Governor to a member of the Investment Advisory Council, nominated by the Council, appointed by the Governor. Adds the Commissioner of Administration as a trustee. The composition is as follows:

1 Active PERS/Active SBS	Elected
1 Retired PERS	Elected
1 Active TRS	Elected
1 retired from any system other than PERS	Elected
2 employers, nominated by member employers	Appointed
1 Commissioner of Revenue	Appointed
1 Commissioner of Administration	Appointed
1 Member of the Investment Advisory Council	Appointed

2. Adds language that requires the Board of Trustees to adopt regulations to govern procurement practices.

3. Changes are as follows:

Page i, Line 12	<u>Nine</u> members
Page 2, Lines 7-9	Adds Investment Advisory Council member and Commissioner of administration
Page 4, Line 11	Procurement regulations
Page 5, Line 16	Adds "recommend to the governor a member of the council for appointment to the board of trustees".
Page 9, Lines 16-26	New Section: Procurement Regulations
Page 17, Line 2	Correct to read Sec. 26
Page 17, Line 8	Adds Commissioner of Administration
Page 17, Line 16	Correct to read Sec. 24
Page 17, Line 18	Correct to read Sec. 25

*Left Margin -
Explanatory Notes*

*House
Finance CS
CHANGES HIGHLIGHTED*

7-LS0124M
Cramer
4/12/91

HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 18 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS POURCHOT, Sturgulevski, Duncan, Collins

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. AS 37.10 ^{Public Funds} is amended by adding new sections to read:

6 *Establishes
Public Corporation* ARTICLE 5. ALASKA STATE PENSION CORPORATION.

7 Sec. 37.10.210. ALASKA STATE PENSION CORPORATION. (a) There is established
8 the Alaska State Pension Corporation. The corporation is a public corporation in the Department
9 of Revenue managed by a board of trustees. The purpose of the corporation is to provide
10 professional management and investment of state pension funds and of other state funds upon
11 agreement with the managers of those funds.

12 *9 Trustees
(4 elected)* (b) The board consists of nine trustees. Four of the trustees shall be elected by the
13 members of the retirement systems. Nominations may be made by the teachers' retirement board.
14 the public employees' retirement board, or by petition signed by at least 10 persons eligible to

BOARD COMP: 1 Active PERS / Active SBS 1 Retired PERS 1 Active TRS
1 Retired NON PERS 2 Employers 1 Comm. of Revenue 1 Comm. of Admin
1 member of Investment Advisory Council

1 vote in the election. One of the elected trustees must be an active member of the public
2 employees' retirement system who is participating in the supplemental benefits program under
3 AS 39.30.150 - 39.30.180, one must be receiving a benefit from the public employees' retirement
4 system, one must be an active member of the teachers' retirement system, and one must be
5 receiving a benefit from a retirement system other than the public employees' retirement system.
6 The governor shall appoint two trustees from a list of nominees submitted by employers in the
7 retirement systems. The governor shall appoint one additional trustee from among the members
8 of the investment advisory council established under AS 37.10.270. The commissioner of
9 revenue and the commissioner of administration serve as trustees.

10 *4 year terms* (c) The appointed and elected trustees shall serve for staggered terms of four years and
11 may be reappointed or reelected to the board.

12 *Reason for Removal* (d) The governor may, by written notice to the trustee, remove an elected or appointed
13 trustee who cannot perform the normal duties associated with the trustee position due to mental
14 or physical incapacitation, who is convicted of a felony, who commits an act that under state law
15 constitutes a felony or a misdemeanor that is incompatible with service on the board, or who fails
16 *CONFLICT OF INTEREST Disclosure* to comply with AS 37.10.230. After a trustee receives written notice of removal from the
17 governor, the trustee may not participate in board business and may not be counted for purposes
18 of establishing a quorum.

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

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

25 *Quorum* (g) Five trustees constitute a quorum for the transaction of business and the exercise of
26 the powers and duties of the board.

27 *No designees* (h) A trustee may not designate another person to serve on the board in the absence of
28 the trustee.

29 *TRAINING* (i) Trustees shall participate in financial education training.

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

31 *Meetings* (1) hold regular and special meetings at the call of the chair or of at least four

1 members;

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

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

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

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

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

17 (7) advise the commissioner of administration concerning the investment of funds
18 held under the state deferred compensation program.

19 (b) The board may

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

22 (2) employ legal counsel;

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

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

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

31 (b) If a trustee, officer, or employee of the corporation acquires, owns, or controls an

Disclosure

INVESTMENT POLICY

Reports to LB & A

Reports to Gov/ Leg/ Employers

Performance Evaluation

Audit

Deferred comp.

Outside Advisors

Legal Counsel

Other State Funds

CONFLICT OF INTEREST

Fiduciaries

other employees

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

7 Termination
 8 for failure to
 comply

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

9 Exempt from
 10 A.P.A. - must
 adopt regs. must

Sec. 37.10.240. REGULATIONS. The board may adopt regulations under the Administrative Procedure Act (AS 44.62) to implement AS 37.10.210 - 37.10.390. The board shall adopt regulations required by AS 36.30.015(f) relating to procurement.

11 Comply w/ OPEN
 12 MEETINGS

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 \$150
 21 Honorarium

22 Ex. Director
 23 employees

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

26 ETHICS ACT
 27 and regs.

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

30 Bonding

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

1 Exempt from
2 Personnel Code

(d) Officers and employees of the corporation are members of the exempt service under 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 INVESTMENT
6 ADVISORY COUNCIL

Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint an 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 management of investment portfolios for public, corporate, or union pension benefit funds,
9 foundations, or endowments.

8 MIN = 3
9 MAX = 5
10 Qualifications

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

10 3 year terms

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

13 Compensation

15 (d) The council shall
16 (1) recommend to the governor a member of the council for appointment to the
17 board of trustees;

16 Nominate
17 Board Member

18 (2) review the investments made by the board;

19 (3) make recommendations to the board concerning the board's investment
20 policies, investment strategy, and investment procedures;

19 Council Duties:

21 (4) advise the board on selection of performance consultants, auditors, and on the
22 form and content of annual reports;

23 (5) provide other advice as requested by the board.

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

24 May contract with
25 other state agencies

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

27 Protection
28 of Assets

Exempt from Taxation except for foreclosed properties.

1 Sec. 37.10.290. EXEMPTION FROM TAXATION. Except as provided in
2 AS 29.45.030(a) for property acquired through foreclosure or deed in lieu of foreclosure, the
3 corporation and all properties at any time owned by it, managed by it, or held by it in trust, and
4 the income from those activities, are exempt from all taxes and assessments in the state. All
5 security instruments issued by the corporation and income from them are exempt from all taxes
6 and assessments in the state, including transfer taxes.

Approved Sureties

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

Limitations

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

Liability

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

28 Sec. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context
29 otherwise requires,

Definitions

- 30 (1) "board" means the board of trustees of the corporation;
- 31 (2) "corporation" means the Alaska State Pension Corporation;

1 (3) "retirement systems" means the teachers' retirement system, the judicial
 2 retirement system, the Alaska National Guard and Alaska Naval Militia retirement system, and
 3 the public employees' retirement system.

4 * Sec. 2. AS 06.05.025 is amended by adding a new subsection to read:

5 *Board of* (d) At the request of the board of trustees of the Alaska State Pension Corporation or of
 6 *LB:AF may req. exam* the legislative auditor, the department shall make an examination of the corporation under this
 7 section.

8 * Sec. 3. AS 14.25.035(d) is amended to read:

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

14 * Sec. 4. AS 14.25.180 is amended to read:

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

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

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

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

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

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

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

1 * Sec. 5. AS 14.25.200(a) is amended to read:

2 T.R.S
3 allows muni.
4 taxation
5 on
6 stock and
7 property

(a) Except as provided in AS 29.45.030(a)(1), member [MEMBER] contributions and other amounts held in the system on behalf of a member or other person who is or may become eligible for benefits under the system are exempt from Alaska state and municipal taxes and are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before they are received by the person entitled to the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the system is void. However, a member's right to receive benefits may be assigned under a qualified domestic relations order.

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

12 Judicial
13 Retirement

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

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

17 Military
18 Retirement

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

20 * Sec. 8. AS 29.45.030(a) is amended to read:

21 Municipal
22 Code

(a) The following property is exempt from general taxation:

(1) municipal, state, or federally owned property, except that

(A) a private leasehold, contract, or other interest in the property is taxable

to the extent of the interest;

(B) property acquired by the Alaska State Pension Corporation

through foreclosure or deed in lieu of foreclosure and retained as an investment of the corporation is taxable;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90

1 days or more of active service in the armed forces of the United States whose conditions of
2 service and separation were other than dishonorable, or the property of an auxiliary of that
3 organization;

4 (5) money on deposit;

5 (6) the real property of certain residents of the state to the extent and subject to
6 the conditions provided in (e) of this section;

7 (7) real property or an interest in real property that is exempt from taxation under
8 43 U.S.C. 1620(d), as amended.

9 * Sec. 9. AS 29.45 is amended by adding a new section to read:

10 Sec. 29.45.295. COLLECTION OF DELINQUENT TAXES ON CERTAIN
11 GOVERNMENTAL PROPERTY. AS 29.45.300 - 29.45.490 do not apply to property taxable
12 under AS 29.45.030(a)(1)(B). A municipality may bring an action in the court of proper
13 jurisdiction to compel payment of property taxes due from the Alaska State Pension Corporation,
14 if the corporation does not pay the amount due within six months after the date that the taxes are
15 due.

*11 Protects Corporation from
12 various non-judicial
13 actions and allows munis
14 judicial process*

16 * Sec. 10. AS 36.30.015(f) is amended to read:

17 (f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding
18 AS 18.56.088, [AND] the board of directors of the Alaska State Housing Authority, and the
19 board of trustees of the Alaska State Pension Corporation shall adopt regulations under the
20 Administrative Procedure Act (AS 44.62) to govern the procurement of supplies, services,
21 professional services, and construction for the respective public corporations. The regulations
22 must

23 (1) reflect competitive bidding principles and provide vendors reasonable and
24 equitable opportunities to participate in the procurement process; and

25 (2) include procurement methods to meet emergency and extraordinary
26 circumstances.

27 * Sec. 11. AS 36.30.850(b)(15) is amended to read:

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

*17 REGULATIONS
18 Procurement Code*

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

2 (1) "agency"

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

6 (B) does not include

7 (i) the University of Alaska;

8 (ii) the Alaska State Housing Authority;

9 (iii) the Alaska Railroad Corporation;

10 (iv) the Alaska Housing Finance Corporation;

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

13 (vi) the Alaska State Pension Corporation;

14 * Sec. 13. AS 37.05.146 is amended to read:

15 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
16 and AS 37.07.080 "program receipts" means fees, charges, income earned on assets, and other
17 state money received by a state agency in connection with the performance of its functions; all
18 program receipts except the following are general fund program receipts:

19 (1) federal receipts;

20 (2) University of Alaska receipts (AS 14.40.491);

21 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
22 terms are restricted to a specific purpose;

23 (4) receipts of the following funds:

24 (A) highway working capital fund (AS 44.68.210);

25 (B) correctional industries fund (AS 33.32.020);

26 (C) loan funds;

27 (D) international airport revenue fund (AS 37.15.430);

28 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
29 the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity
30 Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010),
31 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial

- 1 Development and Export Authority (AS 44.88.020);
- 2 (F) fish and game fund (AS 16.05.100);
- 3 (G) school fund (AS 43.50.140);
- 4 (H) training and building fund (AS 23.20.130);
- 5 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
- 6 former AS 39.37);
- 7 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
- 8 (K) public school trust (AS 37.14.110);
- 9 (L) second injury fund (AS 23.30.040);
- 10 (M) fishermen's fund (AS 23.35.060);
- 11 (N) FICA administration fund (AS 39.30.050);
- 12 (O) receipts of the employee benefits program established under
- 13 AS 39.30.150 - 39.30.180;
- 14 (P) receipts of the deferred compensation program established under
- 15 AS 39.45.

*Excludes SBS and
Deferred Comp. from
definition as Prog. Receipts/
Gen. Fund
AS 39.30.150 - 39.30.180;*

16 * Sec. 14. AS 37.10.071 is amended to read:

- 17 Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making investments
- 18 under this section, the fiduciary of a state fund [COMMISSIONER OF REVENUE] shall
- 19 (1) act as official custodian of cash and investments by securing adequate and safe
- 20 custodial facilities for them;
- 21 (2) receive all items of cash and investments;
- 22 (3) collect and deposit the principal of and income from owned or acquired
- 23 investments;
- 24 (4) invest and reinvest the assets in accordance with this section;
- 25 (5) receive and spend appropriations to cover the cost of the exercise of duties
- 26 under this section;
- 27 (6) exercise the powers of an owner with respect to the assets;
- 28 (7) perform all acts, not prohibited by this section, whether or not expressly
- 29 authorized, that the fiduciary [COMMISSIONER] considers necessary or proper in administering
- 30 the assets;
- 31 (8) maintain accounting records in accordance with generally accented

*Replaces
Comm. of Rev.
with
"Fiduciary of
State Funds"*

G.A.A.P.

1 [INVESTMENT] accounting principles;

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

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

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

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

11 *Fiduciary Responsibilities* (1) delegate investment, custodial, or depository authority on a discretionary or
12 nondiscretionary basis to officers or employees of the state or to independent firms, banks,
13 financial institutions, or trust companies, by designation through appointments, contracts, or
14 letters or authority;

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

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

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

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

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

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

31 (8) utilize consultants, advisors, custodians, investment services, and legal counsel

1 for assistance in investment matters on either a continuing or a limited-term basis and with or
2 without compensation;

3 (9) declare records to be confidential and exempt from AS 09.25.110 and
4 09.25.120 if the records contain information that discloses the particulars of the business or the
5 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

6 (c) In exercising investment, custodial, or depository powers or duties under this section,
7 *Prudent Investor Rule* the fiduciary of a state fund [COMMISSIONER] shall exercise the judgment and care under
8 the circumstances then prevailing that an institutional investor of ordinary professional prudence,
9 discretion, and intelligence exercises in managing large investments with consideration for the
10 purpose of the fund, the investment objectives, the continuing disposition of the fund's
11 investments, and the probable safety of the capital as well as the probable investment returns.

12 With respect to the Alaska State Pension Corporation, the fiduciaries of the corporation
13 shall apply the prudent investor rule and exercise their fiduciary duty in the sole financial
14 best interest of the funds entrusted to them and of the beneficiaries of those funds. The
15 trustees may not make or authorize investment decisions or the voting of shares for a
16 purpose other than the sole financial best interest of the funds or beneficiaries.

17 (d) In exercising investment, custodial, or depository powers or duties under this section,
18 *Delegations* the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE
19 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this
20 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160, 37.-
21 14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE
22 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to
23 another person if the delegation is prudent under the applicable standard of prudence set out in
24 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary
25 [COMMISSIONER] or designee

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

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

31 (3) has knowledge of a breach of duty by another person, unless the fiduciary

Indemnification for Prudent Acts.

1 [COMMISSIONER] or designee makes reasonable efforts under the circumstances to remedy the
2 breach.

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

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

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

11 (2) with respect to the Alaska State Pension Corporation, for investments
12 under AS 14.25.180.

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

14 (B) each officer of the corporation; and

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

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

20 * Sec. 15. AS 39.25.110(11) is amended by adding a new subparagraph to read:

21 (G) Alaska State Pension Corporation;

22 * Sec. 16. AS 39.30 is amended by adding a new section to read:

23 SBS. Sec. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS. The State
24 Pension Corporation is the fiduciary of the receipts of the employee benefits program established
25 under AS 39.30.150 - 39.30.180 and has the same powers and duties concerning the management
26 and investment in regard to those receipts as are provided under AS 14.25.180.

27 * Sec. 17. AS 39.35.020 is amended to read:

28 PERS Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible
29 for the administration of the system and for carrying out this chapter. In addition the
30 commissioner shall

31 (1) maintain the accounts of the system;

- 1 (2) make payments for the various purposes specified;
- 2 (3) submit periodic reports or statements of account that are needed;
- 3 (4) issue a statement of account to an employee requesting it showing the amount
- 4 of the employee's contributions to the system;
- 5 (5) as soon as possible after the close of each fiscal year, and not later than six
- 6 months after the close of each fiscal year, send to the governor, the legislature, and the board an
- 7 annual statement on the operations of the system containing
- 8 (A) a balance sheet;
- 9 (B) a statement of income and expenditures for the year;
- 10 (C) a report on an actuarial valuation of its assets and liabilities;
- 11 (D) a summary of assets held in the pension fund listed by the categories
- 12 of investment, as provided by the Alaska State Pension Corporation [COMMISSIONER
- 13 OF REVENUE];
- 14 (E) other statistical financial data that are necessary for a proper
- 15 understanding of the financial condition of the system and the result of its operations;
- 16 (6) establish a public employees retirement trust fund in which the assets of the
- 17 system shall be deposited and held;
- 18 (7) engage an independent certified public accountant to conduct an annual audit
- 19 of the system's accounts and the annual report of the system's financial condition and activity;
- 20 (8) report to the board concerning the condition and administration of the system
- 21 and distribute the report to the members of the system.

22 * Sec. 18. AS 39.35.080 is amended to read:

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

29 * Sec. 19. AS 39.35.500 is amended to read:

30 *Allows PEBS* Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM.
 31 *to be taxed* Except as provided in AS 29.45.030(a)(1)(B), employee [EMPLOYEE] contributions and other

by municipalities for foreclosure-related property.

1 amounts held in the system are exempt from Alaska state and local taxes. Amounts held on
 2 behalf of, or payable to, any employee or other person who is or may become eligible for
 3 benefits under the system are not subject to anticipation, alienation, sale, transfer, assignment,
 4 pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being
 5 received by the person entitled to the amount under the terms of the system. An attempt to
 6 anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a
 7 right to amounts held under the system is void. However, an employee's right to receive benefits
 8 may be assigned under a qualified domestic relations order.

9 * Sec. 20. AS 39.45.030 is amended by adding a new subsection to read:

10 *Deferred* (c) Before investing the funds held under the state deferred compensation program, the
 11 *Comp.* administrator of the program shall consult with the Alaska State Pension Corporation. The
 12 commissioner shall reimburse the corporation for the cost of providing the advice.

13 * Sec. 21. AS 39.50.200(b) is amended by adding a new paragraph to read:

14 *Conflict of Interest* (52) Alaska State Pension Corporation (AS 37.10.210).

15 * Sec. 22. AS 44.25.020 is amended to read:

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

17 *Adds ASPC to Dept. of Revenue duties.* (1) enforce the tax laws of the state;

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

22 (3) register cattle brands;

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

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

27 * Sec. 23. TRANSITION. All litigation, hearings, investigations, and other proceedings pending
 28 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,
 29 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal
 30 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended
 31 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise

1 modified under the provisions of this Act. All contracts, rights, liabilities and obligations created by or
2 under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 26 of this
3 Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other property
4 of agencies of the state whose functions are transferred under this Act shall be transferred commensurate
5 with the provisions of this Act.

6 * Sec. 24. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by
7 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue and the
8 commissioner of administration, of the board of trustees of the Alaska State Pension Corporation shall
9 be as follows:

- 10 *Initial* (1) one elected member and one appointed member shall serve terms of four years;
- 11 *Terms* (2) one elected member shall serve a three-year term;
- 12 (3) one elected member and one appointed member shall serve terms of two years;
- 13 (4) one elected member and one appointed member shall serve one-year terms.

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

16 * Sec. 25. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 24 of this
17 Act take effect July 1, 1991. *Board/Corporate Organization July 1, '91*

18 * Sec. 26. Except as provided in sec. 25 of this Act, this Act takes effect on the earlier of July 1,
19 1992, or the date established by resolution of the board of trustees of the Alaska State Pension
20 Corporation for the transfer to it of securities and assets of the retirement funds. The board shall
21 promptly provide the revisor of statutes and the lieutenant governor with a copy of this resolution.

*Effective date to transfer assets - by board
resolution or by July 1, '92*

TO: House Finance Committee Members

FROM: Senator Pat Pourchot
Staff: Susie Barnett

RE: Comparison of CSHB(SA) 37 and HCSSSSB 18 (SA)
ALASKA STATE PENSION CORPORATION

DATE: March 25, 1991

1. SB 18 carries a Letter of Intent which encourages the board to utilize local institutions and companies. HB 37 does not carry a letter on intent nor contain language similar to the SB 18 letter of intent.

2. SB 18 contains no language referring to the integration of benefits administration, HB 37, in Section 1 Findings, refers to integration of benefits administration "when prudent".

3. (Section 37.10.210) HB 37 has a 9 member board, SB 18 has an 8 member board. The difference between the two boards is:
SB 18 has a ACTIVE PERS/ACTIVE SBS trustee seat.
HB 37 splits the above seat (SB 18) into two separate seats;
1 ACTIVE PERS and 1 ACTIVE SBS.

SB 18 has a equal balance of elected an appointed seats, HB 37 has a majority of elected seats.

4. (Section 37.10.210) SB 18 sets out specific reasons for removal from the board, HB 37 states removal for just cause.

5. (Section 37.10.220) SB 18 adds a requirement that the board advise the Commissioner of Administration on investment of Deferred Compensation funds and (Section 39.45.030) requires the Commissioner to consult with the board prior to investing. HB 37 does not contain references to Deferred Compensation.

6. (Section 37.05.146) SB 18 adds SBS and Deferred Compensation to the list of funds to be excluded from the Program Receipts /General Fund Definition, thereby protecting the funds.

7. The exemption from taxation section was removed in HB 37. SB 18 contains language that allows municipalities to tax property of the corporation that was acquired through foreclosure or in lieu of foreclosure. The House State Affairs Committee amended the bill to include the taxation sections at the request of the Alaska Municipal League.

HISTORY OF CHANGES FOR SENATE BILL 18

January 30, 1991

Revised: February 15, 1991

Revised: February 21, 1991

Revised: March 25, 1991

The following is a summary of the changes made to SB 18:

Page 1: Sponsor Substitute Changes

Page 2: Finance Committee Substitute Changes

Page 3: House State Affairs Committee Changes

Section 2. AS 37.10 Article 5

Sec. 37.10.210 (b)

(Page 2 Lines 5-12) Changes the board from seven to eight trustees, four of the trustees to be elected by the members in the retirement systems. Elected seats are identified as:

1 Active PERS/Active SBS

1 Retired PERS

1 Active TRS

1 Retired from system other than PERS.

Sec. 37.10.210 (g) (Page 2, Line 28) Changes quorum from four to five.

Sec. 37.10.220 (a) (7) (Page 3, Lines 20,21) Under powers and duties of the board, adds a requirement that the board advise the commissioner of administration concerning the investment of funds held under the state DEFERRED COMPENSATION PROGRAM.

Section 9. AS 36.30.990 (1)

(Page 8, Line 24) Previous drafting error corrected. Updated statute now in bill, which includes AHFC.

Section 12. AS 39.30

Sec. 39.30.175 (Page 12, Lines 2-6) establishes the corporation as the fiduciary for the SUPPLEMENTAL BENEFITS SYSTEM (SBS).

Section 15. AS 39.45.030 (Page 13, lines 9-12) requires the commissioner of administration to consult with the corporation prior to investing DEFERRED COMPENSATION PROGRAM funds and to reimburse corporation for cost of advise.

Section 19. (Page 14, Line 10) under Organization of Trustees, sets out a 3 year term for the additional elected member.

Page 2

Changes made in the Committee Substitute for SSSB 18 (Fin):

PREVIOUS Section 1, FINDINGS, relating to the integration of benefits administration with investment responsibilities, in the Sponsor Substitute for SB 18 has been removed in the Finance CS.

Section 1. Section 37.10.210 (d) the term "just cause" was deleted and replaced with language that specifies reasons for removal from the board by Governor. It allows the governor to prudently remove a trustee who is not capable of performing his/her duties or who is involved in criminal activity.

Section 37.10.220 POWERS AND DUTIES OF THE BOARD. The provision that allowed the Board of Trustees to provide actuarial valuations was removed as it is no longer necessary to include given that all reference to benefits administration responsibilities has also been removed from the bill. Provisions for actuarial valuations are currently in the retirement system statutes.

Section 37.10.270 Qualifications for the Investment Advisory Council members were changed to require a higher level of expertise. The effect would be to eliminate persons who have experience only as consultants, advisers, analysts, brokers and persons who have only managed personal or private portfolios.

Section 37.10.300 "Financial institution" replaced the term "banking institution" in this section to clarify that it is not the intent of this legislation to restrict the corporation from utilizing any financial institution's services if the institution meets the standards under the Prudent Investor Rule.

Section 9. the PROGRAM RECEIPTS LANGUAGE has been added to include receipts of the employee benefits program (SBS) and receipts of the deferred compensation program on the list of funds excluded from the Program Receipts/General Fund definition.

Section 10, Section 37.10.071 (b) the term financial institution was added for the same reasons listed above.

LETTER OF INTENT was adopted by the Committee to encourage the board to utilize local institutions and companies.

Page 3
HCSCSSSB 18 (State Affairs)

The House State Affairs Committee amended the bill to allow municipal taxation of properties held by the corporation that were acquired through foreclosure or deed in lieu of foreclosure.

Section 37.10.290 clarifies that the corporate properties would be taxed under the changes in Title 29.

Section 5 allows Teachers Retirement System member contributions held in the system to be taxed under the changes in Title 29 concerning foreclosed property.

Section 8 amends Title 29 to allow property acquired by the Alaska State Pension Corporation through foreclosure or deed in lieu of foreclosure and retained as an investment to be taxed.

Section 9 exempts the corporation from various non-judicial actions concerning collections of delinquent taxes but preserves for the municipalities a judicial process. House State Affairs clarified that the language should read "in the court of proper jurisdiction" so as not to limit municipal access.

Section 18 amends the PERS statutes to allow PERS member contributions held in the system to be taxed under the changes in Title 29 concerning foreclosed property.

M E M O R A N D U M

March 25, 1991

SUBJECT; ALASKA STATE PENSION CORPORATION (ASPC): Summary of
HCS for SSSB 18 (SA) by Section

TO; Senator Pat Pourchot

FROM; Susan Barnett, Staff

I have prepared this sectional analysis of the HCS for SSSB 18, 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.

TITLE: Identifies that the retirement system funds, and other state funds upon agreement are to be managed and invested by the corporation.

SECTION 1: creates the Alaska State Pension Corporation.

Sec. 37.10.210 establishes the corporation as a public corporation. Subsection (b) sets out the eight voting trustees, four of which are elected by members of the retirement systems, two of which are appointed by the governor from a list submitted by employers, one additional is appointed by the governor from a list of nominees submitted by the other seven trustees, and the commissioner of revenue serves as a trustee. Subsection (c) sets out staggered four year terms for trustees. Subsections (d) and (e) set out removal of trustees and filling of vacancy. Subsections (f)(g)(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 for which it is responsible, submitting investment reports to the legislature, employers, appropriate boards, contracting for external performance reviews, employing 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. CS for SSSB 18 requires the board advise the commissioner of administration concerning the investment of funds held under the state deferred compensation program.

Sec. 37.10.230 sets out conflict of interest provisions for the fiduciaries and allows the board 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 the board to comply with the open meetings law.

Sec. 37.10.250 sets the honorarium for trustees at \$150 per meeting day and states that those who are public employees shall serve without compensation but shall be granted administrative leave.

Sec. 37.10.260 requires the board 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 staff 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 three and not more than five members who must meet qualifications. Subsection (b) sets out staggered three year terms. Subsection (c) allows board to establish compensation for advisory 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 exempts the corporation and property it owns, manages or holds in trust from all taxes and assessments in the state with the exception of municipal taxation on property acquired through foreclosure or in lieu of foreclosure. See listing in Section 8.

Sec. 37.10.300 permits banks and other financial institutions to give sureties to the corporation or to enter into collateral agreements on approved securities.

Sec. 37.10.310 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 the money from the state funds under its own management.

Sec. 37.10.320 limits the states responsibility for liabilities of the corporation.

Sec. 37.10.390 defines board, corporation and retirement systems.

Section 2 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 3: substitutes the corporation for the Commissioner of Revenue in reporting about the condition of the teachers retirement system (TRS) and requires the corporation provide the TRS board with an annual external performance review of the trust fund.

SECTION 4; makes the corporation fiduciary of the TRS fund in place of the Commissioner of Revenue.

Section 5 allows the Teachers Retirement System member contributions held in the system to be taxed under the proposed changes to Title 29, allowing municipal taxation.

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, referred to as the Military fund or system.

Section 8: specifies that property acquired by the ASPC through foreclosure or deed in lieu of foreclosure and retained as investment is taxable by municipal entitites.

Section 9: exempts the corporation from various non-judicial actions concerning collection of delinquent taxes but preserves for municipalities a judicial process.

SECTIONS 10 and 11 exempt the corporation from the procurement code but require the board of trustees to adopt comparable procedures.

SECTION 12 adds SBS and Deferred Compensation funds to the list of those excluded from the definition of Program Receipts.

SECTION 13 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 requires accounting records to be kept in accordance with generally accepted accounting principles. Subsection (c) requires the fiduciary to exercise the Prudent Investor Rule in exercising powers and duties. Subsection (e) requires the state to defend and indemnify the fiduciary if fiduciary performed in good faith and was prudent. Subsection (f) defines fiduciary to include trustee, officer of the corporation and any other person who exercises control over corporation assets.

SECTION 14; places employees of the corporation in the exempt service.

SECTION 15: identifies the corporation as the fiduciary of the receipts of the employee benefits program. (SBS)

SECTIONS 16 and 17: substitute the corporation for the Commissioner of Revenue in the management and investment of the public employees retirement (PERS) fund.

Section 18: allows the PERS member contributions held in the system to be taxed under the changes in Title 29 concerning foreclosed property.

SECTION 19; requires the commissioner of administration to consult with the corporation before investing deferred compensation funds.

SECTION 20; adds the members of the Alaska State Pension Corporation to coverage of the conflict of interest statutes.

SECTION 21; amends the duties of the Department of Revenue to reflect the changes made by the bill.

SECTION 22; is a transition section.

SECTION 23; sets out the initial terms of the board and permits the board to hold organizational meetings as soon as a quorum has been appointed/elected.

SECTION 24; sets July 1, 1991 as the effective date for board organization.

SECTION 25; sets the earlier of July 1, 1992 or the date established by resolution of the trustees as the effective date for the corporation to begin managing and investing assets as well as other duties as defined in the bill.

**DEPARTMENT OF REVENUE
POSITION PAPER**

**HCS CS SS SB 18 (State Affairs)
Alaska State Pension Corporation**

The goal should be to provide for continued prudent management of State of Alaska retirement funds. To accomplish this goal, there are several alternatives including the following:

1. continued sole fiduciary in the Commissioner of Revenue.
2. a separate corporation managed by a board of trustees with minimal accountability to the Governor.
3. a retirement board within the Department of Revenue.

A retirement board within the Department of Revenue as proposed in SB 10 is clearly preferable. It requires minimal additional expenses, uses existing structures and staff within Treasury Division, and provides for shared fiduciary responsibility.

State pension plans may be managed in a variety of ways including the three basic alternatives listed above. A clear majority of states use an investment board within state government. A few have a sole fiduciary but we are not aware of any who have a separate corporate structure. Most boards are accountable to the governor. Many years ago there were abuses of pension monies. These abuses led to federal and State laws governing pension funds. As a result, pension funds are managed more responsibly with substantially greater member benefit protections.

In Alaska, members of state pension plans are protected. Article 12 of the Constitution requires that there be no diminishment of benefits. In other words, a member's benefits may not be reduced and benefit reductions can only be applied to new members. Absent the trust fund, annual benefit payments would have to be appropriated annually. The members are guaranteed their benefits by the State of Alaska. The State is required to actuarially fund the retirement system. The State cannot remove monies from the fund to pay for other expenditures because this would probably be considered a diminishment of benefits. By statute, members pay a fixed rate toward funding a pension plan and the State and the participating subdivisions make up the actuarially computed difference. The State, through its governor, should be in control of managing the pension funds. This is because the State is the ultimate guarantor of benefits and the members' contributions rates are fixed. The pension monies should, of course, be managed in accordance with rules of prudence which is presently the case.

The Commissioner of Revenue is now the fiduciary. In performing his duties, the Commissioner is charged with applying the prudent investor rule in exercising his fiduciary duty in the financial best interest of the funds entrusted to him and the beneficiaries of those funds. CS SS SB 18 ("Bill") would apply this rule of prudence to a board of trustees. The concept of a shared fiduciary has merit. Decisions regarding the management and investment of pension monies would be shared by a board. The board members could bring their collective knowledge and ideas to the decision-making process.

The separate corporation and member controlled board proposed in the Bill will cost more to operate and will be an entity with no accountability to the people through their elected officials and especially the governor. A fiduciary board can be constituted within the Department of Revenue as was proposed in SB 10. This board could perform the same functions as the board proposed for the separate Corporation. A fiduciary board within Revenue would operate within an existing structure at minimal additional cost and would be accountable to the governor. The board would be charged with full fiduciary responsibilities and be required to exercise the prudent investor rule.

The board of trustees created by the Bill would be controlled by elected members. The board would elect its own chair. The board would consist of four elected members, two appointed by the governor from political subdivision employer nominees, and the Commissioner of Revenue. These seven then elect an eighth member which means the elected members have majority representation. Trustees serve four year terms. The governor may not remove a trustee unless the trustee cannot perform "normal" duties due to mental or physical incapacitation, is convicted of a felony, or commits an act that under State law constitutes a felony or misdemeanor that is incompatible with service on the Board.

This board would be exempt from the procurement code, all its employees would be in the exempt service, and the board would retain its own legal counsel. With all this independence, the State must still indemnify the trustees against liability.

The Bill does set forth some good management tools. It provides for performance measurement, investment advisory service, an advisory counsel, and an annual audit. Treasury now performs many functions required by the bill. PERS and TRS funds have performance measurement by a nationally recognized firm. All trust funds are audited by an independent CPA firm with an opinion as to conformance with generally accepted accounting principles. Treasury uses investment advisors, monthly financial statements are prepared, and results are presented semi-annually to the PERS and TRS boards. The management practices set forth in the Bill can be required of a single fiduciary or a shared fiduciary. In fact, these functions should be performed even if not required.

Treasury has been accused in the past of improper management, poor investment results, and high costs. While there were some problems, the retirement funds averaged an annual rate of return of 12.4% over the five years ended June 30, 1990. By comparison, the Permanent Fund averaged 11.3%. Based on the Permanent Fund's investment objectives, they achieved an excellent rate of return. The retirement funds were more heavily invested in equities resulting in the higher earnings rate. While it is true it cost more to manage the retirement funds, there is a reason for this. Treasury manages several funds and not just one, it costs substantially more to manage equities than fixed income securities, and the retirement funds are still managing real estate mortgages acquired several years ago. If the additional rate of return of 1.1% (12.4% - 11.3%) is considered, the retirement funds earned approximately \$55 million (\$5 billion at 1.1%) more than if the Permanent Fund rate of return was earned. This is an annual amount of additional earnings. These earnings far more than offset the additional cost. Also a substantial amount of time is spent working the real estate mortgages which are becoming a smaller part of the total portfolio. The real estate mortgages amounted to 23.9% of the portfolio at June 30, 1985 and only 4.5% at June 30, 1990.

The Bill has recently been touted as a cure for the apparent problems with SBS invested monies. SBS monies were managed and invested by the Department of Administration. The current problems are certainly not due to retirement fund considerations. Moving SBS monies to an independent corporation for management is a hasty reaction and may not be the best solution. After all, SBS monies are immediately employee vested. Perhaps the employees should have the opportunity to direct their investments.

The Bill provides that the corporation advise the Commissioner of Administration concerning the investment of funds held under the State deferred compensation program. The first question that should be resolved is who should manage deferred compensation monies. This program is entirely voluntary and considerable consideration should be given to employee directed investments. For both SBS and deferred compensation, a standard low-risk U.S. government securities fund could be established. Employees wishing a more aggressive posture could elect other options.

In conclusion, this bill sets up an independent corporation not responsible to the people through the governor. The State, by Constitution, is the ultimate guarantor of pension benefits and the employer rate is the one that fluctuates to meet actuarial requirements while the employee rate is fixed. Yet the board would be controlled by members of the retirement funds and board members could not be removed by the governor except in very unusual circumstances. The corporation would be exempt from procurement code requirements and all employees would be in the exempt service. The corporation can retain its own legal counsel and yet the State must indemnify the fiduciary against liability. The corporation would experience substantial start-up costs and would be administratively more expensive to operate than a board within Revenue.

A separate investment board created within the Department of Revenue should be established. Most features of CS SS SB 18 could be incorporated into the investment board functions and the board member composition could be modified to conform more to that of proposed SB 10.

ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,
CO-CHAIR



Senator Pat Pourchot

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JUNEAU, AK 99811
(907) 465-3712

MEMORANDUM

TO: Representative Mike Navarre
Representative Eilean MacLean

FROM: Senator Pat Pourchot

RE: Request for hearing SSSB 18

DATE: March 25, 1991

SSSB 18, An Act establishing the Alaska State Pension Corporation; relating to management and investment of state pension fund; and providing for an effective date, has been referred to your committee.

This legislation establishes a public corporation to manage the Public Employees Retirement System (PERS), the Teachers Retirement System (TRS), the Judicial Retirement System, the Military Retirement System, the Supplemental Benefits System funds and other state funds upon mutual agreement. The corporation allows for a board of trustees with a balance of beneficiary and employer representation and provides for an Investment Advisory Council to assist the board in investment decisions.

This bill moved out of the House State Affairs Committee March 25, 1991. The Committee amended the Senate Finance version to allow municipal taxation of properties held by the corporation that were acquired through foreclosure or deed in lieu of foreclosure. The Committee further clarified that action on collection of delinquent taxes may be taken in "court of proper jurisdiction" as opposed to the superior court only.

I would greatly appreciate your scheduling this bill for a hearing as early as possible.

Municipality of Anchorage



P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
(907) 343-4433
TOM FINK,
MAYOR

OFFICE OF THE MUNICIPAL MANAGER

April 18, 1991

House Finance Committee
P.O. Box V
Juneau, Alaska 99811

Re: SB 18, Investment of Pension Funds

Dear Committee Members:

The Municipality of Anchorage has a concern with section 37.10.290 of SB 18, Exemption from Taxation. With the exception of property acquired through foreclosure or deed in lieu of foreclosure, all other properties of the corporation are exempted from taxes and assessments in the state.

We believe there should be an additional exception to the exemption, and ask that the following amendment be adopted:

"Property acquired by the Alaska State Pension corporation and retained as an investment is taxable."

Excluding investment properties from local taxes would give the Corporation an unfair competitive edge over other property owners. For example, if the Corporation purchased a downtown office building, it could charge lower rents than a neighboring competitor in a similar class of building, because its operating costs would be lower. In the meantime, it would still be receiving the same government services as the other property owner. Excluding one segment of property owners shifts the cost of providing government services to all other property owners. This is clearly an unfair advantage for the Corporation.

If you have any questions, please feel free to call me.

Sincerely,

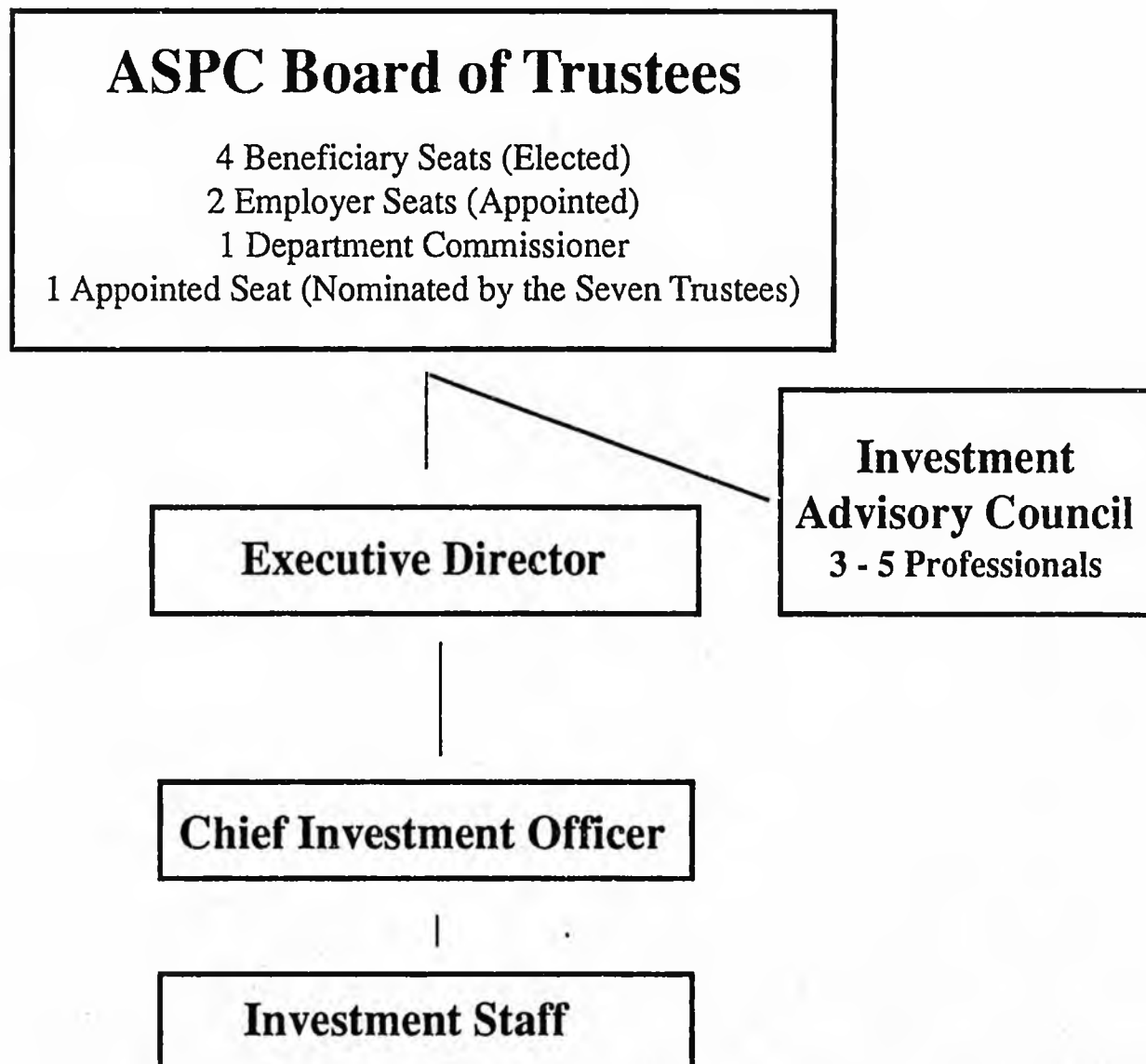
Larry D. Crawford
Municipal Manager

Alaska State Pension Corporation (ASPC)

HCS CSSS SB 18 (SA)

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 (SBS)	\$600 million



DOCUMENTS WHICH HAVE NOT BEEN
FILMED BUT ARE AVAILABLE IN THE
ORIGINAL FILE INCLUDE:

Correspondence in support from:

UAS Faculty Senate 2/12/91

ACSA

UAF Staff Council 1/16/91

Alaska Municipal League - Policy Stmt.

NEA - Alaska 3/6/91

ASEA

Correspondence in opposition from:

Alaska Permanent Fund Corporation 10/2/90

SB 18

SENATE FINANCE COMMITTEE REPORT

DATE: 2/4/91

FURTHER:

DATE TURNED INTO OFFICE: 2/20/91

The Finance Committee considered SSSB NO. 18

"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."

and recommended:

replace with _____ CS for SS SB 18 (Ren)
 or adopt _____ CS _____

same title
 new title
 technical title change (HB only)

attached amendment(s)
 Finance letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) _____
AK Pension Fund 10,109.6 2/11/91
DOR, (9,846.95) 2/22/91

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____
Dept Admin 0 2/9/91

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

J. A. ...
Al ...
...
...
...

1. ... 2. ...
Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SS SB 18

Revision Date: February 11, 1991

Department Affected: Alaska State Pension Corporation

Title: Alaska State Pension Corporation

BRU: _____

Component: _____

Sponsor: Pourchot

Requestor: Senate State Affairs

Component Serial No.

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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	10,109.6	20,219.2	20,219.2	20,219.2	20,219.2	20,219.2
TOTAL OPERATING	10,109.6	20,219.2	20,219.2	20,219.2	20,219.2	20,219.2

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

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

FUNDING: Thousands of Dollars

GENERAL FUND						
FEDERAL FUNDS						
OTHER: See Attached Detail	10,109.6	20,219.2	20,219.2	20,219.2	20,219.2	20,219.2
TOTAL	10,109.6	20,219.2	20,219.2	20,219.2	20,219.2	20,219.2

POSITIONS:

FULL-TIME				
PART-TIME				
TEMPORARY				

Changes in CS SB 18 (Fix) have no fiscal impact. This fiscal note is appropriate. 2/20/91

Estimate of current year impact: None

ANALYSIS: FY 92 - 97 are the amounts deleted from the Treasury budget on the attached fiscal note. FY 92 - 97 net incremental cost is \$2,889.15 which represents the management of the Supplemental Benefits Investment Fund and the difference between Treasury's original budget request and Treasury's budget per the Administration's request. This fiscal note does not take into effect a potential change of office location for the pension corporation.

Prepared by: Brian C. Andrews *CSA*

Phone: 465-2350

Division: Treasury

Date: _____

Approved by Commissioner: *[Signature]*

Agency: Revenue

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

FISCAL NOTE (continued)

BILL NO.: SS SB 18

Alaska State Pension Corporation

OTHER FUNDING: Thousands of Dollars

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Public Employees Retirement Investment Fund	6,137.6	12,275.2	12,275.2	12,275.2	12,275.2	12,275.2
Teachers Retirement Investment Fund	3,712.65	7,425.3	7,425.3	7,425.3	7,425.3	7,425.3
Judicial Retirement Investment Fund	40.85	81.7	81.7	81.7	81.7	81.7
Military Retirement Investment Fund	8.55	17.1	17.1	17.1	17.1	17.1
Supplemental Benefits System ¹	209.95	419.9	419.9	419.9	419.9	419.9

¹ Annual Component Costs of the Supplemental Benefits System are as follows:

Personal Services \$ 68.3

Contractual Services:

Security Safekeeping \$ 28.0
 Domestic Stock Management 185.6
 International Stock Management 116.0
 Performance Measurement 12.0
 Audit 10.0

351.6

TOTAL \$419.9

FISCAL NOTE

SFC R/O 2/20/91

BILL NO. SS SB 18

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: February 11, 1991

Department Affected: Revenue

Title: Alaska State Pension Corporation

BRU: Treasury

Component: _____

Sponsor: Pourchot

Component Serial No.

Requestor: Senate 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	(9,846.95)	(19,693.9)	(19,693.9)	(19,693.9)	(19,693.9)	(19,693.9)
TOTAL OPERATING	(9,846.95)	(19,693.9)	(19,693.9)	(19,693.9)	(19,693.9)	(19,693.9)

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER: See Attached Detail	(9,846.95)	(19,693.9)	(19,693.9)	(19,693.9)	(19,693.9)	(19,693.9)
TOTAL	(9,846.95)	(19,693.9)	(19,693.9)	(19,693.9)	(19,693.9)	(19,693.9)

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Changes in CS 55 SB 18 (Fin) have no fiscal impact. This fiscal note is appropriate. 2/20/91

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 originally requested in Treasury's FY 92 budget for retirement funds. FY 93 - 97 are the full amount of the original FY 92 budget for retirement funds.

Prepared by: Brian C. Andrews *BA*

Phone: 465-2350

Division: Treasury

Date: _____

Approved by Commissioner: *[Signature]*

Agency: Revenue

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

FISCAL NOTE(continued)

BILL NO.: SS SB 18

Department of Revenue, Treasury Division

OTHER FUNDING: Thousands of Dollars

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
Public Employees Retirement Investment Fund	(6,111.25)	(12,222.5)	(12,222.5)	(12,222.5)	(12,222.5)	(12,222.5)
Teachers Retirement Investment Fund	(3,686.3)	(7,372.6)	(7,372.6)	(7,372.6)	(7,372.6)	(7,372.6)
Judicial Retirement Investment Fund	(40.85)	(81.7)	(81.7)	(81.7)	(81.7)	(81.7)
Military Retirement Investment Fund	(8.55)	(17.1)	(17.1)	(17.1)	(17.1)	(17.1)

FISCAL NOTE

BILL NO. SSSB18

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Revision Date: _____
Title: An Act Establishing the Alaska State Pension Corporation.
Sponsor: Pourchot
Requestor: _____

Department Affected: Administration
BRU: Retirement and Benefits
Component: Retirement and 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
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	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 to the Division from this bill.

Changes in SSSB18 (FW)
have no fiscal impact.
This fiscal note is
appropriate. 2/20/91

Prepared By: Gary Bader
Division: Retirement and Benefits

Phone: 465-4460
Date: _____

Approved by Commissioner: Millett Keller
Agency: Department of Administration

Date: 2/15/91

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



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

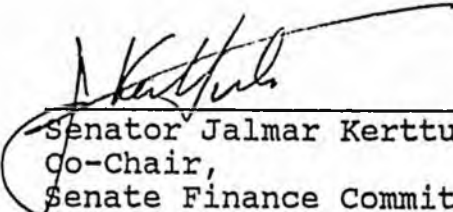
SENATE FINANCE COMMITTEE

LETTER OF INTENT

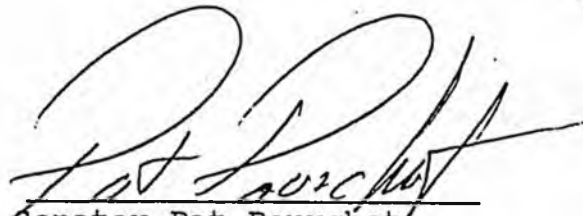
CSSSSB 18 (FIN)

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.

Acting within the fiduciary responsibility under the Prudent Investor Rule, the Alaska State Pension Corporation Board of Trustees is encouraged to look to and utilize local institutions and companies for investment and business opportunities within the State of Alaska.



Senator Jalmar Kerttula
Co-Chair,
Senate Finance Committee



Senator Pat Pourchot
Co-Chair,
Senate Finance Committee

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 18 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Duncan, Collins

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. AS 37.10 is amended by adding new sections to read:

6 **ARTICLE 5. ALASKA STATE PENSION CORPORATION.**

7 **Sec. 37.10.210. ALASKA STATE PENSION CORPORATION.** (a) There is established
8 the Alaska State Pension Corporation. The corporation is a public corporation in the Department
9 of Revenue managed by a board of trustees. The purpose of the corporation is to provide
10 professional management and investment of state pension funds and of other state funds upon
11 agreement with the managers of those funds.

12 (b) The board consists of eight trustees. Four of the trustees shall be elected by the
13 members of the retirement systems. Nominations may be made by the teachers' retirement board,
14 the public employees' retirement board, or by petition signed by at least 10 persons eligible to

1 vote in the election. One of the elected trustees must be an active member of the public
2 employees' retirement system who is participating in the supplemental benefits program under
3 AS 39.30.150 - 39.30.180, one must be receiving a benefit from the public employees' retirement
4 system, one must be an active member of the teachers' retirement system, and one must be
5 receiving a benefit from a retirement system other than the public employees' retirement system.
6 The governor shall appoint two trustees from a list of nominees submitted by employers in the
7 retirement systems. The governor shall appoint one additional trustee from a list of nominees
8 submitted by the other seven trustees. The commissioner of revenue serves as a trustee.

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

11 (d) The governor may, by written notice to the trustee, remove an elected or appointed
12 trustee who cannot perform the normal duties associated with the trustee position due to mental
13 or physical incapacitation, who is convicted of a felony, who commits an act that under state law
14 constitutes a felony or a misdemeanor that is incompatible with service on the board, or who fails
15 to comply with AS 37.10.230. After a trustee receives written notice of removal from the
16 governor, the trustee may not participate in board business and may not be counted for purposes
17 of establishing a quorum.

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

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

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

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

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

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

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

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

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

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

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

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

16 (7) advise the commissioner of administration concerning the investment of funds
17 held under the state deferred compensation program.

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

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

30 (b) If a trustee, officer, or employee of the corporation acquires, owns, or controls an
31 interest, direct or indirect, in an entity or project in which assets under the control of the

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

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

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

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

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

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

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

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

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

3 Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint
4 an investment advisory council composed of at least three and not more than five members.
5 Members of the council shall possess experience and expertise in financial investments and
6 management of investment portfolios for public, corporate, or union pension benefit funds,
7 foundations, or endowments.

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

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

13 (d) The council shall

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

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

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

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

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

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

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

1 including transfer taxes.

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

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

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

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

25 (1) "board" means the board of trustees of the corporation;

26 (2) "corporation" means the Alaska State Pension Corporation;

27 (3) "retirement systems" means the teachers' retirement system, the judicial
28 retirement system, the Alaska National Guard and Alaska Naval Militia retirement system, and
29 the public employees' retirement system.

30 * Sec. 2. AS 06.05.025 is amended by adding a new subsection to read:

31 (d) At the request of the board of trustees of the Alaska State Pension Corporation or of

1 the legislative auditor, the department shall make an examination of the corporation under this
2 section.

3 * Sec. 3. AS 14.25.035(d) is amended to read:

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

9 * Sec. 4. AS 14.25.180 is amended to read:

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

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

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

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

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

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

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

27 * Sec. 5. AS 22.25.048(c) is amended to read:

28 (c) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] is the
29 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same powers
30 and duties under this section in regard to the judicial retirement trust fund as are provided in
31 AS 14.25.180.

1 * Sec. 6. AS 26.05.228(c) is amended to read:

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

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

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

10 * Sec. 8. AS 36.30.990(1) is amended to read:

11 (1) "agency"

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

15 (B) does not include

16 (i) the University of Alaska;

17 (ii) the Alaska State Housing Authority;

18 (iii) the Alaska Railroad Corporation;

19 (iv) the Alaska Housing Finance Corporation;

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

22 (vi) the Alaska State Pension Corporation;

23 * Sec. 9. AS 37.05.146 is amended to read:

24 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
25 and AS 37.07.080 "program receipts" means fees, charges, income earned on assets, and other
26 state money received by a state agency in connection with the performance of its functions; all
27 program receipts except the following are general fund program receipts:

28 (1) federal receipts;

29 (2) University of Alaska receipts (AS 14.40.491);

30 (3) individual, foundation, or corporation gifts, grants, or bequests that by their
31 terms are restricted to a specific purpose;

1 (4) receipts of the following funds:

2 (A) highway working capital fund (AS 44.68.210);

3 (B) correctional industries fund (AS 33.32.020);

4 (C) loan funds;

5 (D) international airport revenue fund (AS 37.15.430);

6 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
7 the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity
8 Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010),
9 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial
10 Development and Export Authority (AS 44.88.020);

11 (F) fish and game fund (AS 16.05.100);

12 (G) school fund (AS 43.50.140);

13 (H) training and building fund (AS 23.20.130);

14 (I) reurement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
15 former AS 39.37);

16 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

17 (K) public school trust (AS 37.14.110);

18 (L) second injury fund (AS 23.30.040);

19 (M) fishermen's fund (AS 23.35.060);

20 (N) FICA administration fund (AS 39.30.050);

21 (O) receipts of the employee benefits program established under
22 AS 39.30.150 - 39.30.180:

23 (P) receipts of the deferred compensation program established under
24 AS 39.45.

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,
22 financial institutions, or trust companies, by designation through appointments, contracts, or
23 letters or authority;

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

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

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

1 assets or as a precommitment of future cash flows;

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

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

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

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

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

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

26 (d) In exercising investment, custodial, or depository powers or duties under this section,
27 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE
28 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this
29 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160, 37.-
30 14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE
31 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to

1 another person if the delegation is prudent under the applicable standard of prudence set out in
2 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary
3 [COMMISSIONER] or designee

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

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

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

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

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

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

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

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

23 (B) each officer of the corporation; and

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

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

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

30 (G) Alaska State Pension Corporation;

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

1 Sec. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS. The State
2 Pension Corporation is the fiduciary of the receipts of the employee benefits program established
3 under AS 39.30.150 - 39.30.180 and has the same powers and duties concerning the management
4 and investment in regard to those receipts as are provided under AS 14.25.180.

5 * Sec. 13. AS 39.35.020 is amended to read:

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

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

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

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

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

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

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

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

31 * Sec. 14. AS 39.35.080 is amended to read:

1 Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION CORPORATION
2 [COMMISSIONER OF REVENUE]. The Alaska State Pension Corporation
3 [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE]
4 fiduciary of the fund. The corporation [COMMISSIONER] has the same powers and duties
5 established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and
6 14.25.180.

7 * Sec. 15. AS 39.45.030 is amended by adding a new subsection to read:

8 (c) Before investing the funds held under the state deferred compensation program, the
9 administrator of the program shall consult with the Alaska State Pension Corporation. The
10 commissioner shall reimburse the corporation for the cost of providing the advice.

11 * Sec. 16. AS 39.50.200(b) is amended by adding a new paragraph to read:

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

13 * Sec. 17. AS 44.25.020 is amended to read:

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

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

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

20 (3) register cattle brands;

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

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

25 * Sec. 18. TRANSITION. All litigation, hearings, investigations, and other proceedings pending
26 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,
27 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal
28 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended
29 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise
30 modified under the provisions of this Act. All contracts, rights, liabilities and obligations created by or
31 under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 21 of this

1 Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other property
2 of agencies of the state whose functions are transferred under this Act shall be transferred commensurate
3 with the provisions of this Act.

4 * Sec. 19. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by
5 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue, of the board
6 of trustees of the Alaska State Pension Corporation shall be as follows:

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

8 (2) one elected member shall serve a three-year term;

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

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

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

13 * Sec. 20. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 19 of this
14 Act take effect July 1, 1991.

15 * Sec. 21. Except as provided in sec. 20 of this Act, this Act takes effect on the earlier of July 1,
16 1992, or the date established by resolution of the board of trustees of the Alaska State Pension
17 Corporation for the transfer to it of securities and assets of the retirement funds. The board shall
18 promptly provide the revisor of statutes and the lieutenant governor with a copy of this resolution.

1/23/92

By Senator Pourchot

COMPARISON OF CSSB 329 AND SB 18 PENSION FUND MANAGEMENT

Senate Bill 18, which established the Alaska State Pension Corporation, passed both bodies in 1991 and was vetoed by the Governor. SB 329 was drafted in cooperation with the Department of Revenue and the Department of Administration and incorporates many of the concepts that were included in SB 18. The major differences between the two bills are listed below.

SB 329 ESTABLISHES A BOARD OF TRUSTEES WHICH DIRECTS THE DEPARTMENT OF REVENUE IN THE MANAGEMENT AND INVESTMENT OF PENSION FUNDS.

SB 329 does not establish a separate corporation, as was proposed in SB 18. Elimination of the corporate concept altered language in several areas of the bill. SB 329 does not contain any provisions for an executive director, corporate exempt employees, banking examination, or holding of assets. SB 329 does contain a new provision that allows the Commissioner of Revenue to designate employees who are subject to conflict of interest and whose failure to comply would be grounds for termination.

SB 329 ADDS DEFERRED COMPENSATION FUNDS TO THE PREVIOUS SB 18 LIST OF FUNDS.

The Board of Trustees in SB 329 will manage the funds of the following systems: PERS, TRS, Judicial, Military, SBS and Deferred Compensation. Provisions have been added that require the Board to consult with the Department of Administration prior to making any changes to either the SBS or the Deferred Compensation programs. The Board is also required to develop contingency plans for potential carrier investment problems for both SBS and Deferred Compensation.

SB 329 ALTERS CURRENT SBS AND DEFERRED COMPENSATION STATUTES BY CONVEYING FIDUCIARY POWERS TO THE BOARD AND ALLOWING FOR, BUT NOT REQUIRING, PARTICIPANT DIRECTED INVESTMENT PROGRAMS.

The current statutory Deferred Compensation "laundry list" of authorized investments has been deleted to allow the Board to set the investment strategy. The language is the same as that proposed for the SBS funds. Both provisions allow for a participant directed plan and if chosen, clarifies the liability limits of the fiduciary for losses due to the individual's exercise of control.

BOARD COMPOSITION:

SB 329 establishes an eight member Board, four elected and four appointed. The elected members are 1 PERS/SBS, 1 PERS, 2 TRS. The PERS and TRS Boards are empowered to set regulations concerning election and removal of the PERS/TRS board members. The Governor appointed members are: Commissioner of Revenue and three members who have investment experience, with at least one of these representing a non-state employer. The Governor may remove the appointed members for cause. The nine member board composition in SB 18 was more exacting in eligibility for both elected and appointed members and contained specific reasons for removal.

BOARD REQUIREMENTS:

In addition to the duties and responsibilities listed in SB 18, SB 329 requires that the Board shall:

1. Develop and present a budget to DOR, OMB and the Legislature
2. Review every two years, the actuarial earnings assumption for each fund and report to the appropriate boards and agencies
3. Adopt procurement regulations that include public notice requirements and emergency procedures
4. Select and monitor external investment managers
5. Meet annually with the PERS and TRS board and the Department of Administration to review benefit administration of each system.

Adopted as a
packet
2/20/91 JK

A M E N D M E N T #1

Offered to the Senate Finance Committee by Senator Pourchot

TO: CS SS SB 18

Page 2, Line 11:

(d) The governor may remove an elected or appointed trustee (FOR JUST CAUSE) who cannot perform the normal duties associated with the trustee position due to mental or physical incapacitation, (INCLUDING) who is convicted of a felony, who commits an act that under Alaska State law constitutes a misdemeanor that is incompatible with service on the board (INCLUDING) or

Rationale: Deleting the undefined term "just cause" and replacing it with specific reasons for removal, allows the governor to prudently remove a trustee who is not capable of performing his/her duties or who is involved in criminal activity but eliminates removal for political purposes only.

A M E N D M E N T #2

Offered to the Senate Finance Committee by Senator Pourchot

TO: CS SS SB 18

Page 3, Lines 21, 22
Sub-section (4)

(PROVIDE FOR ACTUARIAL VALUATIONS OF THE RETIREMENT SYSTEMS AND
OTHER ENTITIES WHOSE FUNDS THE BOARD MANAGED;)

Renumber sub-sections accordingly.

Rationale: Responsibility for actuarial valuations is currently in the retirement system statutes. Language was originally placed in the bill to allow the corporation to provide actuarial valuations if responsibilities for benefits administration were to be incorporated with investment responsibilities. The "integration of responsibilities" language has been removed in the CS, therefore this language should be deleted as well.

A M E N D M E N T # 3

Offered to the Senate Finance Committee by Senator Pourchot

TO: CS SS SB 18

Page 6, Line 3
or (BANKING) financial institutions

Page 6, Line 5
or (BANKING) financial institutions

Page 6, Line 6
other (BANKING) financial institutions

Page 6, Line 10
or (BANKING) financial institutions

Page 10, Line 20
trust companies, financial institutions, by designation through
appointments, contracts, or letters of authority;

Rationale: Broadening the term from "banking" institution to "financial" institution clarifies that it is not the intent of this legislation to restrict the corporation from utilizing any financial institution's services if the institution meets the standards under the Prudent Investor Rule.

A M E N D M E N T # 4

Offered to the Senate Finance Committee

by Senator Pourchot

TO: CS SS SB 18

Page 5, Line 5

(PORTFOLIO MANAGEMENT) management of investment portfolios for public, corporate, or union pension benefit funds, foundations or endowments.

Rationale: The effect of this would be to eliminate persons who have experience only as consultants, advisers, analysts, brokers, and persons who have only managed personal or private portfolios of individuals. Requiring Advisory Council members to meet the qualifications listed in the amendment meets the standard of prudence required of fiduciaries of large funds but is not so restrictive that it eliminates the possibility of in-state professionals serving on the Council.

*Left Margin:
Explanatory Notes*

*2/19/91
Adopted*

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 18 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Duncan, Collins

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. AS 37.10 is amended by adding new sections to read:

6 ARTICLE 5. ALASKA STATE PENSION CORPORATION.

7 *Establishes Public Corp.* Sec. 37.10.210. ALASKA STATE PENSION CORPORATION. (a) There is established
8 the Alaska State Pension Corporation. The corporation is a public corporation in the Department
9 of Revenue managed by a board of trustees. The purpose of the corporation is to provide
10 professional management and investment of state pension funds and of other state funds upon
11 agreement with the managers of those funds.

12 *8 Trustees (4 elected)* (b) The board consists of eight trustees. Four of the trustees shall be elected by the
13 members of the retirement systems. Nominations may be made by the teachers' retirement board,
14 the public employees' retirement board, or by petition signed by at least 10 persons eligible to

① Active PEES KSB

② Retired PEES

③ Active TRS

④ Retired Non-PEES

⑤ employers

⑥ Board members Gov. appt

⑦ Comm. of Rev.

Removal
Vacancy

Chair

Quorum

No Designees

Training

meetings

investment policy

reports to LB & A

vote in the election. One of the elected trustees must be an active member of the public employees' retirement system who is participating in the supplemental benefits program under AS 39.30.150 - 39.30.180, one must be receiving a benefit from the public employees' retirement system, one must be an active member of the teachers' retirement system, and one must be receiving a benefit from a retirement system other than the public employees' retirement system.

The governor shall appoint two trustees from a list of nominees submitted by employers in the retirement systems. The governor shall appoint one additional trustee from a list of nominees submitted by the other seven trustees. The commissioner of revenue serves as a trustee.

(c) The appointed and elected trustees shall serve for staggered terms of four years and may be reappointed or reelected to the board. 4 year terms

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

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

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

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

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

(i) Trustees shall participate in financial education training.

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

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

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

(3) submit long-range and quarterly investment reports to the Legislative Budget

1 and Audit Committee;
 2 *report to Gov/Leg/Employers* (4) report to the governor, the legislature, and employers participating in the
 3 retirement systems by the first day of each regular legislative session concerning the investment
 4 of funds for which the corporation is responsible including financial and investment policies
 5 established by the board and enclose a summary of the most recent performance evaluations of
 6 the funds managed by the corporation;

7 *Performance evaluation* (5) contract with external performance evaluators to review the performance of
 8 each fund for which the corporation is responsible and report each year on the fund's condition
 9 to the board of trustees and to the other appropriate boards;

10 *Audit* (6) engage independent certified public accountants to prepare an annual audit of
 11 each of the funds for which the corporation is responsible and to report to the board with the
 12 results of the audit;

13 *Deferred Comp.* (7) advise the commissioner of administration concerning the investment of funds
 14 held under the state deferred compensation program.

15 (b) The board may

16 *outside advisors* (1) employ outside investment advisors to review investment policies and make
 17 recommendations to the board;

18 *legal counsel* (2) employ legal counsel;

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

21 *AA of ? actuarial valuations* (4) provide for actuarial valuations of the retirement systems and other entities
 22 whose funds the board manages;

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

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

30 (b) If a trustee, officer, or employee of the corporation acquires, owns, or controls an
 31 interest, direct or indirect, in an entity or project in which assets under the control of the
 32 corporation are invested, the trustee, officer, or employee shall immediately disclose the interest
 33 *disclosure*

Relates to integration of PP could remove.

Conflict of Interest
fiduciary
other designated employees

1 to the board. The disclosure is a matter of public record and shall be included in the minutes
 2 of the board meeting next following the disclosure. The board shall adopt regulations to restrict
 3 trustees, officers, and employees from having a substantial interest in an entity or project in
 4 which assets under the control of the corporation are invested.

5 *Termination*
 6 *for failure to*
 7 *comply* (c) Failure to comply with the requirements of this section or regulations enacted under
 8 it is grounds for termination of employment.

9 *Exempt from*
 10 *A.P.A. - must comply*
 11 *with open meeting* Sec. 37.10.240. REGULATIONS. The board may adopt regulations under the Admin-
 12 istrative Procedure Act (AS 44.62) to implement AS 37.10.210 - 37.10.390.

13 Sec. 37.10.250. COMPENSATION OF TRUSTEES. Trustees, other than trustees who
 14 are employees of the state or a political subdivision of the state, receive an honorarium of \$150
 15 *\$50.*
 16 *Honorarium* for each day spent at a meeting of the board or at a meeting of a subcommittee of the board or
 17 at a public meeting as a representative of the board. Trustees who are state employees are
 18 entitled to administrative leave for service as a trustee. Trustees who are employees of a political
 19 subdivision of the state are entitled to leave benefits provided by their employers comparable to
 20 those provided to state employees for service as a trustee. Trustees are entitled to per diem and
 21 travel expenses authorized for boards and commissions under AS 39.20.180.

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

30 *Ethics Act*
 31 *and*
 32 *regulations* (b) The board shall adopt regulations that restrict the executive director, investment
 33 directors, other officers, and employees from having financial interest, directly or indirectly, in
 34 firms or corporations that provide services to the corporation. Officers and employees of the
 35 corporation are subject to AS 39.52.

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

38 *Exempt from*
 39 *Personnel Code* (d) Officers and employees of the corporation are members of the exempt service under
 40 AS 39.25.110.

41 *Ex. Dir.*
 42 *Signature* (e) A deed, contract, or other document that must be executed by or on behalf of the

1 corporation shall be signed by the executive director.

2 *Investment Advisory Council* Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint

3 an investment advisory council composed of at least three and not more than five members.

4 *min = 3*
5 *max = 5*
6 *1 inst. professional* Members of the council shall possess experience and expertise in financial investments and portfolio management.

7 *3 year terms* (b) Members of the council serve at the pleasure of the board for staggered terms of three years.

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

9 (d) The council shall

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

11 *Council Duties:* (2) make recommendations to the board concerning the board's investment policies, investment strategy, and investment procedures;

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

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

14 *Council may contract to advise other state agencies.* (e) With approval of the board, the council may contract with other state agencies to provide investment advice.

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

16 *Exempt from Taxation.* Sec. 37.10.290. EXEMPTION FROM TAXATION. The corporation and all properties at any time owned by it, managed by it, or held by it in trust, and the income from those activities, are exempt from all taxes and assessments in the state. All security instruments issued by the corporation and income from them are exempt from all taxes and assessments in the state, including transfer taxes.

17 *approved sureties* Sec. 37.10.300. SURETY FOR DEPOSITS WITH BANKS. Banks, trust companies,

Guarantee - include credit unions?

*2/19/01
Done base to test by*

*2/19/01
Burgess
with file
by minie
P.D. concern
but reluctant
to upset
existing tradition*

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

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

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

21 Sec. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context
 22 otherwise requires,

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

28 * Sec. 2. AS 06.05.025 is amended by adding a new subsection to read:

29 *AK BANKING CODE* (d) At the request of the board of trustees of the Alaska State Pension Corporation or of
 30 the legislative auditor, the department shall make an examination of the corporation under this
 31 *Board or LBIA may request exam.* section.