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ALASKA RAILROAD
CORPORATION

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1200.8 Use of ARRC Name The design or ordering of material that includes the use of the ARRC name or symbols must be approved by the Director of Administration.

1200.9 Standardization In order to maximize purchasing power, standardization of supplies, materials and equipment is to be achieved wherever appropriate.

1200.10 Purchases by Employees Employees may not purchase through the ARRC any materials purchased or used by the ARRC.

1200.11 Agreement with ARRC Policies and Practices Vendor selection and products shall be consistent with policies and standard practices of the ARRC.

1200.12 Make or Buy Where products required for company operations can be produced by the ARRC's operating departments or can be acquired from vendors, ARRC departments should be considered in the same manner as any other vendor.

1200.13 Conflict of Interest Internal Rule 900, "Conflict of Interest", is applicable to all Procurement Division personnel and activities.

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1200.14 Oral Agreements When the value of an order is $500.00 or more there must be written notation recording the order and terms, normally a purchase order.

1200.15 Committment Authority Only those persons to whom authority has been delegated by the CEO may commit the ARRC to the purchase of materials, equipment, supplies, and services.

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1300.0 PROCUREMENT DIVISION RESPONSIBILITIES

1300.1 Obligation Authority The Procurement Division will obligate the ARRC and make the final determination on sources of supply, quantities purchased, delivery schedule and price negotiations, except where others are authorized. They are responsible for ensuring that the Corporation is in compliance with the provisions of AS 36.05 et seq. in all of its procurement and purchasing activities.

1300.2 Purchasing Practices The Manager of Procurement shall examine the quality and kind of material requested to ensure that the best interest of ARRC are served, and shall inform ordering departments whenever the quantity or specifications of materials ordered are inconsistent with sound purchasing practices and market conditions.

1300.3 Interpretation of Rule Interpretion of this Rule is the responsibility of the Manager of Procurement. The Manager shall maintain a uniform set of forms, and procedures.

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1300.4 Advance Procurement Program The Manager of Procurement will establish and maintain an advance procurement program.

1300.5 Evaluation Bids, proposals, and quotations will be evaluated in a manner that assures fair and equitable treatment of bidders and provides the best value to the ARRC. Determination of the successful bidder and award of the order will be made by the Procurement Division, in consultation with the using department, only after all aspects including preference of the requisitioner have been considered. Results of formal solicitations will be disclosed to authorized ARRC personnel, ARRC Board and Legislative Audit. The name of the successful bidder and the amount of the award will be provided, on request, to firms that submitted qualified offers.

1300.6 Terms and Conditions Standard terms and conditions will apply to all purchases made by the ARRC.

1300.7 Return of Materials The Procurement Division will arrange for the return or disposition of merchandise that is received but not needed or acceptable.

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1300.8 <u>Freight Charges</u> The Procurement Division is responsible for negotiating freight terms on all procurements.

1300.9 <u>Follow Up</u> The Manager of Procurement will follow up on all over-due or back-ordered purchase orders to assure prompt receipt of materials as required by the users.

1300.10 <u>Working With Vendors</u> When supplier sales representatives make personal calls, they are to be directed to the Procurement Division. All response to questions regarding prices and products shall be provided by the Procurement Division. The Manager of Procurement is responsible for maintaining effective and professional relationships with vendors. Employees involved in procurement activities will work to maintain and enhance the ARRC's image by their personal conduct and methods of doing business.

1300.11 <u>Aggrieved Respondents</u> The Manager of Procurement will establish a procedure for prompt and equitable resolution of vendor complaints.

Chapter 25. Contractors' Bonds.

Sec. 36.25.010. Bonds of contractors for public buildings or works.

NOTES TO DECISIONS

Contract for the delivery of "cover material" to a solid refuse landfill operated by the municipality of Anchorage was a supply contract which did not come within the scope of this chapter's bonding requirement. Municipality of Anchorage v. Tatco, Inc., Sup. Ct. Op. No. 3438 (File No. S-2697), P.2d (1989).

Sec. 36.25.020. Rights of persons furnishing labor or material.

NOTES TO DECISIONS

Quoted in Municipality of Anchorage v. Tatco, Inc., Sup. Ct. Op. No. 3438 (File No. S-2697), P.2d (1989).

Chapter 30. State Procurement Code.

Article 1. Organization of State Procurement.

Sec. 36.30.005. Centralization of procurement authority. (a) Except as otherwise provided, all rights, powers, duties, and authority relating to the procurement of supplies, services, and professional services, and the control over supplies, services, and professional services vested in or exercised by an agency on January 1, 1988, are transferred to the commissioner of administration and to the chief procurement officer. Authority granted under this subsection shall be exercised in accordance with this chapter.

(b) Except as otherwise provided, all rights, powers, duties, and authority relating to the procurement of construction and procurements of equipment or services for the state equipment fleet and the control over construction of state facilities and the state equipment fleet vested in or exercised by an agency on January 1, 1988, are transferred to the commissioner of transportation and public facilities, subject to regulations adopted by the commissioner of administration. Notwithstanding AS 44.68.110, authority relating to disposals from the state equipment fleet is vested in the commissioner of transportation and public facilities, subject to regulations adopted by the commissioner of administration. Authority granted under this subsection shall be exercised in accordance with this chapter.

(c) Notwithstanding other provisions of law, all rights, powers, duties, and authority relating to the procurement of supplies, services, professional services, and construction and the disposal of supplies for the University of Alaska are transferred to the Board of Regents. To the maximum extent possible, authority granted under this subsection shall be exercised in accordance with this chapter. The Board of Regents shall adopt regulations under this subsection that are substantially equivalent to the regulations adopted by the commissioner of administration to implement this chapter. For the purposes of this subsection, unless the context otherwise requires, in this chapter

(1) "agency" means a subunit of the University of Alaska;

(2) "attorney general" means the president of the University of Alaska;

(3) "chief procurement officer" means a person designated by the president of the University of Alaska whose qualifications are substantially equivalent to those provided in AS 36.30.010(a);

(4) "commissioner," "commissioner of administration," or "commissioner of transportation and public facilities" means the Board of Regents or the president of the University of Alaska if so designated by the Board of Regents by regulations adopted under this subsection; and

(5) "department" means the University of Alaska. (§ 2 ch 106 SLA 1986; am §§ 1, 2 ch 65 SLA 1987)

Editor's notes. — This section is set out to incorporate editorial changes made by the Revisor of Statutes.

NOTES TO DECISIONS

Cited in Bowers Office Prods., Inc. v. University of Alaska, 755 P.2d 1095 (Alaska 1988).

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Sec. 36.30.015. Executive branch agencies. (a) The commissioner of transportation and public facilities may delegate to another agency the authority to contract for construction. Before delegating authority to an agency under this subsection, the commissioner of transportation and public facilities shall make a written determination that the agency is capable of implementing the delegated authority. Notwithstanding delegation of authority under this subsection, contracts for construction are governed by this chapter and regulations adopted by the commissioner of administration under this chapter.

(b) The commissioner of administration may delegate to an agency the authority to contract for and manage services, professional services, and supplies. Notwithstanding delegation of authority under this subsection, an agency's exercise of the authority is governed by this chapter and regulations adopted by the commissioner under this chapter. Before delegating authority to an agency under this subsection, the commissioner shall make a written determination that the agency is capable of implementing the delegated authority.

(c) The commissioner of administration may not delegate the authority to dispose of supplies or the authority to adopt regulations under this chapter.

(d) An agency may not contract for the services of legal counsel without the approval of the attorney general.

(e) The boards of directors of the Alaska Railroad Corporation and the Alaska State Housing Authority shall adopt procedures to govern the procurement of supplies, services, professional services, and construction by the corporation. The procedures must be substantially equivalent to the procedures prescribed in this chapter and in regulations adopted under this chapter. (§ 2 ch 106 SLA 1986)

Revisor's notes. — Under § 2, ch. 11, SLA 1989 and AS 01.05.031 "Alaska State Housing Authority" was substituted for "Alaska State Building Authority" in 1989.

Sec. 36.30.040. Procurement regulations. (a) The commissioner shall adopt regulations governing the procurement, management, and control of supplies, services, professional services and construction by agencies. The commissioner may audit and monitor the implementation of the regulations and the requirements of this chapter with respect to using agencies.

(b) The commissioner shall adopt regulations pertaining to the following:

(1) suspension, debarment, and reinstatement of prospective bidders and contractors;

(2) bid protests;

(3) conditions and procedures for the procurement of perishables and items for resale;

(4) conditions and procedures for the use of source selection methods authorized by this chapter, including sole source procurements, emergency procurements, and small procurements;

(5) the opening or rejection of bids and offers, and waiver of informalities in bids and offers;

(6) confidentiality of technical data and trade secrets submitted by actual or prospective bidders or offerors;

(7) partial, progressive, and multiple awards;

(8) storerooms and inventories, including determination of appropriate stock levels and the management of agency supplies;

(9) transfer, sale or other disposal of supplies;

(10) definitions and classes of contractual services and procedures for acquiring them;

(11) providing for conducting price analysis;

(12) use of payment and performance bonds in connection with contracts for supplies, services, and construction;

(13) guidelines for use of cost principles in negotiations, adjustments, and settlements;

(14) conditions under which an agency may use the services of an employment program;

(15) a bidder's or offeror's duties under AS 36.30.115 and 36.30.210; and

(16) the elimination and prevention of discrimination in state contracting because of race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, handicap, or political affiliation. (§ 2 ch 106 SLA 1986; am § 1 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, deleted "as defined under AS 36.30.100(c)" at the end of subsection (b)(14).

Sec. 36.30.050. Lists of contractors. (a) The commissioner shall establish and maintain lists of persons who desire to provide supplies, services, professional services, or construction services to the state.

(b) A person who desires to be on a list shall submit to the commissioner evidence of a valid Alaska business license. A biennial fee may be established by regulation in an amount reasonably calculated to pay the costs of administering this section. A construction contractor shall also submit a valid certificate of registration issued under AS 08.18. The commissioner, by regulation, may require submission of additional information.

(c) The lists may be used by the chief procurement officer or an agency when issuing invitations to bid or requests for proposals under this chapter. The lists may be used by the legislative council, the court system, the Alaska State Housing Authority, and the Alaska Railroad Corporation.

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Revisor's notes. — Under § 2, ch. 11, SLA 1989 and AS 01.05.031 "Alaska State Housing Authority" was substituted for "Alaska State Building Authority" in 1989.

Sec. 36.30.090. Delivery of supplies. Supplies purchased under this chapter shall be delivered at a location within the state unless the department determines that a point of delivery outside the state would be in the best interest of the state. A bid or proposal involving the procurement of supplies shall specify the delivery location and shall state that the price is the delivered price at that location. (§ 1 ch 8 SLA 1989)

Effective dates. — Section 2, ch. .., SLA 1989, provides: "This Act takes effect July 1, 1989."

Article 2. Competitive Sealed Bidding.

Sec. 36.30.100. General policy. (a) Except as otherwise provided in this chapter, or unless specifically exempted by law, an agency contract shall be awarded by competitive sealed bidding.

(b) Competitive sealed bidding is not required

(1) when the commissioner determines in writing that food, clothing, or medical supplies, or materials for use in laboratory or medical studies may be purchased otherwise to the best advantage of the state;

(2) when rates are fixed by law or ordinance;

(3) for the purchase of products or services manufactured or provided by an employment program:

(4) for the purchase of products or services provided by the correctional industries program established under AS 33.32;

(5) for professional services; or

(6) for concessions operated on state property.

(c) *[Repealed, § 20, ch 102, SLA 1989.]* (§ 2 ch 106 SLA 1986; am § 20 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, repealed subsection (c).

Sec. 36.30.110. Invitation to bid. (a) When competitive sealed bidding is used, the procurement officer shall issue an invitation to bid. It must include a time, place and date by which the bid must be received, purchase description, and a description of all contractual terms and conditions applicable to the procurement.

(b) The bidder must have a valid Alaska business license at the time designated in the invitation to bid for bid opening. A bidder for a construction contract shall also submit evidence of the bidder's registration under AS 08.18.

(c) If the commissioner of transportation and public facilities makes a written finding that the release of the estimated cost of a construction contract would adversely affect the state's ability to obtain the best competitive bid, the estimated cost is confidential information and may not be released to the public before bid opening. (§ 2 ch 106 SLA 1986; am §§ 2, 3 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10 1989, rewrote the present first sentence in subsection (b) and added subsection (c).

Sec. 36.30.115. Subcontractors. (a) Within five working days after the identification of the apparent low bidder, the apparent low bidder shall submit a list of the subcontractors the bidder proposes to use in the performance of the contract. The list must include the name and location of the place of business for each subcontractor and evidence of the subcontractor's valid Alaska business license. A bidder for a construction contract shall also submit evidence of each subcontractor's registration under AS 08.18. If a subcontractor on the list did not have a valid Alaska business license and a valid certificate of registration under AS 08.18 at the time the bid was opened, the bidder may not use the subcontractor in the performance of the contract, and shall replace the subcontractor with a subcontractor who had a valid Alaska business license and a valid certificate of registration under AS 08.18 at the time the bid was opened.

(b) A bidder may replace a listed subcontractor if the subcontractor

(1) fails to comply with AS 08.18;

(2) files for bankruptcy or becomes insolvent;

(3) fails to execute a contract with the bidder involving performance of the work for which the subcontractor was listed and the bidder acted in good faith;

(4) fails to obtain bonding;

(5) fails to obtain insurance acceptable to the state;

(6) fails to perform the contract with the bidder involving work for which the subcontractor was listed;

(7) must be substituted in order for the prime contractor to satisfy required state and federal affirmative action requirements;

(8) refuses to agree or abide with the bidder's labor agreement; or

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(9) is determined by the procurement officer not to be a responsible subcontractor.

(c) If a bidder fails to list a subcontractor or lists more than one subcontractor for the same portion of work and the value of that work is in excess of half of one percent of the total bid, the bidder shall be considered to have agreed to perform that portion of work without the use of a subcontractor and to have represented the bidder to be qualified to perform that work.

(d) A bidder who attempts to circumvent the requirements of this section by listing as a subcontractor another contractor who, in turn, sublets the majority of the work required under the contract violates this section.

(e) If a contract is awarded to a bidder who violates this section, the purchasing officer may

(1) cancel the contract; or

(2) after notice and a hearing, assess a penalty on the bidder in an amount that does not exceed 10 percent of the value of the subcontract at issue. (§ 2 ch 106 SLA 1986; am §§ 4, 5 ch 65 SLA 1987; am § 2 ch 163 SLA 1988; am § 4 ch 102 SLA 1989)

Effect of amendments. — The 1988 amendment added the last sentence in subsection (a).

The 1989 amendment, effective September 10, 1989, substituted "subcontractor" for "bidder" at the end of paragraph (b)(9).

Sec. 36.30.120. **Bid security.** (a) Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the procurement officer to exceed an amount established by regulation of the commissioner. Bid security on construction contracts under the amount set by the commissioner may be required when the circumstances warrant. Bid security may be required for competitive sealed bidding for contracts for supplies, services, or professional services in accordance with regulations of the commissioner when needed for the protection of the state.

(b) Bid security must be a bond provided by a surety company authorized to do business in the state or otherwise supplied in a form satisfactory to the commissioner. Bid security must be in an amount equal to at least five percent of the amount of the bid.

(c) When the invitation to bid requires security, the procurement officer shall reject a bid that does not comply with the bid security requirement unless, in accordance with regulations, the officer determines that the bid fails to comply in a nonsubstantial manner with the security requirements. (§ 2 ch 106 SLA 1986; am § 5 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, rewrote the second sentence of subsection (b).

Sec. 36.30.170. Contract award after bids. (a) Except as provided in (b), (c), and (d) of this section, the procurement officer shall award a contract based on the solicited bids with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set out in the invitation to bid.

(b) The procurement officer shall award a contract based on solicited bids to the lowest responsive and responsible bidder after an Alaska bidder preference of five percent and an Alaska products preference as described in AS 36.30.322 — 36.30.338 have been applied. In this subsection, "Alaska bidder" means a person who

(1) holds a current Alaska business license;

(2) submits a bid for goods, services, or construction under the name as appearing on the person's current Alaska business license;

(3) has maintained a place of business within the state staffed by the bidder or an employee of the bidder for a period of six months immediately preceding the date of the bid;

(4) is incorporated or qualified to do business under the laws of the state, is a sole proprietorship, and the proprietor is a resident of the state or is a partnership, and all partners are residents of the state; and

(5) if a joint venture, is composed entirely of ventures that qualify under (1) — (4) of this subsection.

(c) If a bidder qualifies under (b) of this section as an Alaska bidder, is offering services through an employment program, and is the lowest responsible and responsive bidder with a bid that is not more than 10 percent higher than the lowest bid of a nonresident, the procurement officer shall award the contract to that bidder.

(d) The procurement officer shall award an insurance-related contract based on solicited bids to the lowest responsive and responsible bidder after an Alaska bidder preference of five percent. In this subsection, "Alaska bidder" means a person who meets the criteria set out in (b)(1) — (5) of this section and who is an Alaska domestic insurer. (§ 2 ch 106 SLA 1986; am §§ 7 — 9 ch 65 SLA 1987; am § 6 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, deleted "as defined under AS 36.30.100(c)" following "employment program" in subsection (c).

Sec. 36.30.180. Purpose. The legislature finds that there exists in the state continuing high unemployment, underutilization of resident construction and supply firms, and high costs unfavorable to the welfare of Alaskans and to the economic health of the state. The purpose of bidder preference for resident firms when the state acts as a market participant is to encourage local industry, strengthen and stabilize the economy, decrease unemployment, and strengthen the tax and revenue base of the state. (§ 1 ch 70 SLA 1985)

Revisor's notes. — Formerly AS 37.05.225. Renumbered in 1988.

Article 3. Competitive Sealed Proposals.

Sec. 36.30.210. Request for proposals. (a) A request for competitive sealed proposals must contain the date, time, and place for delivering proposals, a specific description of the supplies, construction, services, or professional services to be provided under the contract, and the terms under which the supplies, construction, services, or professional services are to be provided. The request must require the offeror, no later than five working days after the proposal that is the most advantageous to the state is identified, to list subcontractors the offeror proposes to use in the performance of the contract. The list must include the name and location of the place of business for each subcontractor, the work to be subcontracted to each subcontractor, and evidence of the subcontractor's valid Alaska business license. An offeror for a construction contract shall also submit evidence of the offeror's registration under AS 08.18 and evidence of registration for each listed subcontractor.

(b) A request for proposals must contain that information necessary for an offeror to submit a proposal or contain references to any information that cannot reasonably be included with the request. The request must provide a description of the factors that will be considered by the procurement officer when evaluating the proposals received, including the relative importance of price and other evaluation factors.

(c) Notice of a request for proposals shall be given in accordance with procedures under AS 36.30.130. The procurement officer may use additional means considered appropriate to notify prospective offerors of the intent to enter into a contract through competitive sealed proposals.

(d) The provisions of AS 36.30.115(b) — (e) apply to competitive sealed proposals.

(e) The offeror must have a valid Alaska business license at the time designated, in the request for proposals, for opening of the proposals. (§ 2 ch 106 SLA 1986; am § 10 ch 65 SLA 1987; am §§ 7, 8 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, in subsection (a), rewrote the second sentence and, in the third sentence, substituted "must" for "shall" and inserted "the work to be subcontracted to each subcontractor"; and added subsection (e)."

Sec. 36.30.250. Award of contract. (a) The procurement officer shall award a contract under competitive sealed proposals to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the state taking into consideration price and the evaluation factors set out in the request for proposals. Other factors and criteria may not be used in the evaluation. The contract file must contain the basis on which the award is made.

(b) In determining whether a proposal is advantageous to the state, the procurement officer shall take into account, in accordance with regulations of the commissioner, whether the offeror qualifies as an Alaska bidder under AS 36.30.170(b) or is offering the service of an employment program. (§ 2 ch 106 SLA 1986; am § 9 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, deleted "as defined in AS 36.30.100(c)" at the end of subsection (b).

Sec. 36.30.265. Multi-step sealed proposals. When it is considered impractical to initially prepare a definitive purchase description to support an award based on listed selection criteria, the procurement officer may issue an expression of interest requesting the submission of unpriced technical offers, and then later issue a request for proposals limited to the offerors whose offers are determined to be technically qualified under the criteria set out in the expression of interest. (§ 10 ch 102 SLA 1989)

Effective dates. — Chapter 102, SLA 1989, which enacted this section, took effect on September 10, 1989.

Article 4. Other Procurement Methods.

Section
300. Sole source procurements
305. Limited competition procurements
320. Small procurements

Sec. 36.30.300. Sole source procurements. (a) A contract may be awarded for supplies, services, professional services, or construction without competitive sealed bidding, competitive sealed proposals, or other competition in accordance with regulations adopted by the commissioner. A contract may be awarded under this section only when the chief procurement officer or, for construction contracts or procurements for the state equipment fleet, the commissioner of transportation and public facilities determines in writing that there is only one source for the required procurement or construction. A sole source procurement may not be awarded if a reasonable alternative source exists. The written determination must include findings of fact that support by clear and convincing evidence the determination that only one source exists. Except for procurements of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a), the authority to make the determination required by this subsection may not be delegated.

(b) The using agency shall submit written evidence to support a sole source determination. The commissioner of administration or the commissioner of transportation and public facilities, as appropriate, may also require the submission of cost or pricing data in connection with an award under this section.

(c) The procurement officer shall negotiate with the single supplier, to the extent practicable, to obtain a contract advantageous to the state.

(d) Procurement requirements may not be artificially divided, fragmented, aggregated or structured so as to constitute a purchase under this section or to circumvent the source selection procedures required by AS 36.30.100 – 36.30.270. (§ 2 ch 106 SLA 1986; am § 11 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, in subsection (a), deleted "of administration" at the end of the first sentence and added "Except for procurements of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a)" at the beginning of the last sentence.

Sec. 36.30.305. Limited competition procurements. (a) A contract for supplies, services, professional services, or a construction contract under $100,000, may be awarded without competitive sealed bidding or competitive sealed proposals, in accordance with regulations adopted by the commissioner. A contract may be awarded under this section only when the commissioner, or, for construction contracts under $100,000 or procurements for the state equipment fleet, the commissioner of transportation and public facilities, determines in writing that a situation exists that makes competitive sealed bidding or competitive sealed proposals impractical or contrary to the public interest. Procurements under this section shall be made with competition that is practicable under the circumstance. Except for procurements of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a), the authority to make a determination required by this section may not be delegated.

(b) The using agency shall submit written evidence to support a determination under this section.

(c) Procurement requirements may not be artificially divided, fragmented, aggregated, or structured so as to constitute a purchase under this section or to circumvent the source selection procedures required by AS 36.30.100 — 36.30.270.

(d) Sole source procurements may not be made under this section.

(e) Architectural, engineering, and land survey contracts under AS 36.30.270 may not be made under this section. (§ 11 ch 65 SLA 1987; am § 12 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, in subsection (a), deleted "of administration" at the end of the first sentence and following "commissioner" in the second sentence and added "Except for procurements of supplies, services, or construction that do not exceed the amount for small procurements under AS 36.30.320(a)" at the beginning of the last sentence.

Sec. 36.30.320. Small procurements. (a) A procurement for supplies, services, or construction that does not exceed an aggregate dollar amount of $10,000 may be made in accordance with regulations adopted by the commissioner for small procurements.

(b) A contract for professional services that does not exceed $25,000 may be made under regulations adopted by the commissioner for small procurements, except that an agency may not contract for the services of legal counsel without the approval of the attorney general.

(c) Small procurements need not be made through competitive sealed bidding or competitive sealed proposals but shall be made with competition that is practicable under the circumstances.

(d) Procurement requirements may not be artificially divided or fragmented so as to constitute a purchase under this section or to circumvent the source selection procedures required by AS 36.30.100 — 36.30.270.

(e) The procurement officer shall give adequate public notice of intent to make a procurement under this section in accordance with regulations adopted by the commissioner. (§ 2 ch 106 SLA 1986; am § 12 ch 65 SLA 1987; am § 13 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, substituted "$10,000" for "$5,000" in subsection (a).

Article 5. Preference for Alaska Products.

Sec. 36.30.324. Use of Alaska products. Alaska products shall be used whenever practicable in procurements for an agency. Recycled Alaska products shall be used when they are of comparable quality, of equivalent price, and appropriate for the intended use. (§ 2 ch 106 SLA 1986; am § 4 ch 63 SLA 1988)

Effect of amendments. — The 1988 amendment added the second sentence.

Sec. 36.30.332. Classification of Alaska products. (a) The commissioner of commerce and economic development shall adopt regulations establishing the value added in the state for materials and supplies produced or manufactured in the state that are used in a state procurement and establishing whether a product qualifies as a recycled Alaska product. The commissioner shall publish a list of the products annually. A supplier may request inclusion of its product on the appropriate list.

(b) Materials and supplies with value added in the state that are

(1) more than 25 percent and less than 50 percent produced or manufactured in the state are Class I products;

(2) 50 percent or more and less than 75 percent produced or manufactured in the state are Class II products; and

(3) 75 percent or more produced or manufactured in the state are Class III products.

(c) In a bid or proposal evaluation a

(1) Class I product is given a three percent preference;

(2) Class II product is given a five percent preference;

(3) Class III product is given a seven percent preference. (§ 2 ch 106 SLA 1986; am § 15 ch 65 SLA 1987; am § 5 ch 63 SLA 1988)

Effect of amendments. — The 1988 amendment, in subsection (a), divided the former first sentence into the present first two sentences and added "and establishing whether a product qualifies as a recycled Alaska product" at the end of the first sentence.

Sec. 36.30.338. Definitions. In AS 36.30.322 — 36.30.338

(1) "Alaska product" means a product of which not less than 25 percent of the value, as determined in accordance with regulations adopted under AS 36.30.332(a), has been added by manufacturing or production in the state;

(2) "produced or manufactured" means processing, developing, or making an item into a new item with a distinct character and use

through the application within the state of materials, labor, skill, or other services;

(3) "product" means materials or supplies but does not include gravel and asphalt;

(4) "recycled Alaska product" means an Alaska product of which not less than 50 percent of the value of the product consists of a product that was previously used in another product, if the recycling process is done in the state. (§ 2 ch 106 SLA 1986; am § 17 ch 65 SLA 1987; am § 6 ch 63 SLA 1988)

Effect of amendments. — The 1988 amendment added paragraph (4).

Article 6. Contract Formation and Modification.

Sec. 36.30.360. Determination of responsibility. (a) A written determination of nonresponsibility of a bidder or offeror shall be made by the procurement officer in accordance with regulations adopted by the commissioner. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination of nonresponsibility with respect to the bidder or offeror.

(b) Information furnished by a bidder or offeror under (a) of this section is confidential and may not be disclosed without prior written consent by the bidder or offeror. (§ 2 ch 106 SLA 1986; am § 14 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, substituted "nonresponsibility" for "responsibility" in the first sentence in subsection (a).

Sec. 36.30.362. Determination to award a contract to a nonresident. Except for awards made under AS 36.30.170, if the procurement officer awards a contract to a person who does not reside or maintain a place of business in the state and if the supplies, services, professional services, or construction that is the subject of the contract could have been obtained from sources in the state, the procurement officer shall issue a written statement explaining the basis of the award. The statement required under this section shall be kept in the contract file. (§ 2 ch 106 SLA 1986; am § 15 ch 102 SLA 1989)

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Effect of amendments. — The 1989 amendment, effective September 10, 1989, added "Except for awards made under AS 36.30.170" at the beginning of the first sentence.

add

Article 8. Legal and Contractual Remedies.

Sec. 36.30.590. Appeal on a protest. (a) An appeal from a decision of a procurement officer on a protest may be filed by the protester with the commissioner of administration, or for protests involving construction or procurements for the state equipment fleet, the commissioner of transportation and public facilities. An appeal shall be filed within 10 days after the decision is received by the protester. The protester shall file a copy of the appeal with the procurement officer.

(b) An appeal must contain the information required under AS 36.30.560. In addition, the appeal must include

(1) a copy of the decision being appealed; and

(2) identification of the factual or legal errors in the decision that form the basis for the appeal. (§ 2 ch 106 SLA 1986; am § 16 ch 102 SLA 1989)

Effect of amendments. — The 1989 amendment, effective September 10, 1989, substituted "10 days" for "five days" in the second sentence in subsection (a).

Sec. 36.30.645. Written determinations. (a) The commissioner of administration or the commissioner of transportation and public facilities shall issue a written decision to debar or suspend. The decision must

(1) state the reasons for the action taken; and

(2) inform the debarred person of rights to judicial appeal or inform the suspended person of rights to administrative and judicial appeal.

(b) A copy of the decision under (a) of this section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other intervening party. (§ 2 ch 106 SLA 1986)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 36.30.680. Final decision by the commissioner. A decision by the commissioner of administration or the commissioner of transportation and public facilities after a hearing under this chapter is final. A decision shall be sent within 20 days after the hearing to all parties by personal service or certified mail, except that a decision by the commissioner of transportation and public facilities involving procurement of construction shall be sent within 90 days after the hearing to all parties by personal service or certified mail. (§ 2 ch 106 SLA 1986)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 36.30.685. Judicial appeal. (a) A final decision of the commissioner of administration or the commissioner of transportation and public facilities under AS 36.30.610, 36.30.635(a), 36.30.650, or 36.30.680 may be appealed to the superior court in accordance with the Alaska Rules of Appellate Procedure.

(b) A final decision of the commissioner of administration or the commissioner of transportation and public facilities under AS 36.30.630(b) may be appealed to the superior court for a trial de novo. (§ 2 ch 106 SLA 1986)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 36.30.690. Exclusive remedy. Notwithstanding AS 44.77 or other law to the contrary, AS 36.30.560 — 36.30.699 and regulations adopted under those sections provide the exclusive procedure for asserting a claim against an agency arising in relation to a procurement under this chapter. (§ 2 ch 106 SLA 1986)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Article 9. Intergovernmental Relations.

Sec. 36.30.730. Supply of personnel, information, and technical services. (a) A public procurement unit may, upon written request from another public procurement unit or external procurement activity, provide personnel to the requesting public procurement unit or external procurement activity. The public procurement unit or external procurement activity making the request shall pay the public procurement unit providing the personnel the direct and indirect cost of furnishing the personnel, in accordance with an agreement between the parties.

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(b) The informational, technical, and other services of a public procurement unit may be made available to another public procurement unit or external procurement activity except that the requirements of the public procurement unit tendering the services has precedence over the requesting public procurement unit or external procurement activity. The requesting public procurement unit or external procurement activity shall pay for the expenses of the services so provided, in accordance with an agreement between the parties.

(c) Upon request, the commissioner may make available to public procurement units or external procurement activities the following services, among others:

(1) standard forms;

(2) printed manuals;

(3) product specifications and standards;

(4) quality assurance testing services and methods;

(5) qualified products lists;

(6) source information;

(7) common use commodities listings;

(8) supplier performance ratings;

(9) lists of persons debarred or suspended from consideration for award of state contracts;

(10) forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and

(11) contracts or published summaries of them, including price and time of delivery information.

(d) The commissioner may provide the following technical services, among others:

(1) development of product specifications;

(2) development of quality assurance test methods, including receiving, inspection, and acceptance procedures;

(3) use of product testing and inspection facilities; and

(4) use of personnel training programs.

(e) The commissioner may enter into contractual arrangements and publish a schedule of fees for the services provided under (c) and (d) of this section.

(f) The commissioner shall separately account for fees collected under (c) and (d) of this section and deposited in the general fund. The annual estimated balance in the account may be used by the legislature to make appropriations to the department to carry out the purposes of (c) and (d) of this section. (§ 2 ch 106 SLA 1986; am § 59 ch 14 SLA 1987)

Editor's notes. — This section is set out above to correct a typographical error in the main pamphlet.

Sec. 36.30.735. Restriction on contracting with or employing experts on radiation hazards. (a) Except for the Department of Health and Social Services, the Department of Labor, the Department of Environmental Conservation, and the Department of Military and Veterans' Affairs, a state agency may not

(1) contract, other than with the Department of Health and Social Services, to have services performed that require expertise in determining or reducing the hazards of radiation; or

(2) employ a person whose duties require expertise in determining or reducing the hazards of radiation.

(b) In this section, "state agency" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the Alaska State Housing Authority, but not including the University of Alaska, a municipality, or an agency of a municipality or the Alaska State Building Authority.

(c) In this section, "radiation" does not include radiation emitted from a Federal Communications Commission licensed facility emitting radiation of a wave length longer than one centimeter and an average power output not exceeding two kilowatts. (§ 2 ch 106 SLA 1986)

Revisor's notes. — Under § 2, ch. 11, SLA 1989 and AS 01.05.031 "Alaska State Housing Authority" was substituted for "Alaska State Building Authority" in 1989.

Article 10. General Provisions.

Sec. 36.30.850. Application of this chapter. (a) This chapter applies only to contracts solicited or entered into after January 1, 1988, unless the parties agree to its application to a contract solicited or entered into before that date.

(b) This chapter applies to every expenditure of state money by the state, acting through an agency, under a contract, except that this chapter does not apply to

(1) grants;

(2) contracts for professional witnesses to provide for professional services or testimony relating to existing or probable lawsuits in which the state is or may become a party;

(3) contracts of the University of Alaska where the work is to be performed substantially by students enrolled in the university;

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(4) contracts for medical doctors and dentists;

(5) acquisitions or disposals of real property or interest in real property, except as provided in AS 36.30.080;

(6) disposals under AS 38.05;

(7) contracts for the preparation of ballots under AS 15.15.030;

(8) acquisitions or disposals of property and other contracts relating to airports under AS 02.15.070, 02.15.090, and 02.15.091;

(9) disposals of obsolete property under AS 19.05.060;

(10) disposals of obsolete material or equipment under AS 35.20.060;

(11) agreements with providers of services under AS 44.47.250; AS 47.07; AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;

(12) contracts of the Department of Fish and Game for flights that involve specialized flying and piloting skills and are not point-to-point;

(13) purchases of income-producing assets for the state treasury or a public corporation of the state;

(14) operation of the state boarding school established under AS 14.16, if the State Board of Education or the commissioner of education adopts regulations for use by the state boarding school in procurement and contracting;

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

(16) a contract that is a delegation, in whole or in part, of investment powers of the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13;

(17) the purchase of books, book binding services, newspapers, periodicals, audio-visual materials, network information services access, approval plans, professional memberships, archival materials, objects of art, and items for museum or archival acquisition having cultural, historical, or archaeologial significance; in this paragraph

(A) "approval plans" means book selection services in which current book titles meeting an agency's customized specifications are provided to the agency subject to the right of the agency to return those books that do not meet with the agency's approval;

(B) "archival materials" means the noncurrent records of an agency that are preserved after appraisal because of their value;

(C) "audio-visual materials" means nonbook prerecorded materials, including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact discs, laser discs, and items that require the use of equipment to render them usable;

(D) "network information services" means a group of resources from which cataloging information, holdings records, inter-library loans, acquisitions information, and other reference resources can be obtained;

(18) contracts for the purchase of standardized examinations for licensure under AS 08;

(19) contracts for home health care and adult residential and foster care services provided under regulations adopted by the Department of Health and Social Services;

(20) contracts for supplies or services for research projects funded by money received from the federal government or private grants; or

(21) guest speakers or performers for an educational or cultural activity.

(c) Except for AS 36.30.700 — 36.30.790, this chapter does not apply to contracts between two or more agencies, the state and its political subdivisions, or the state and other governments.

(d) Nothing in this chapter or in regulations adopted under this chapter prevents an agency or political subdivision from complying with the terms and conditions of a grant, gift, bequest, cooperative agreement or federal assistance agreement.

(e) AS 36.30.170 applies to all insurance contracts involving state money. In this subsection, "state money" includes state grants and reimbursement to municipalities, school districts, and other entities. (§ 2 ch 106 SLA 1986; am §§ 21, 22 ch 65 SLA 1987; am § 1 ch 38 SLA 1988; am § 5 ch 73 SLA 1988; am § 18 ch 141 SLA 1988; am §§ 17, 18 ch 102 SLA 1989)

* add

Revisor's notes. — Paragraphs (b)(15) — (17) were enacted as (b)(14), (15), and (14), respectively. Renumbered in 1988.

Effect of amendments. — The first 1988 amendment inserted subsection (b)(17).

The second 1988 amendment inserted subsection (b)(14).

The third 1988 amendment, effective June 9, 1988, inserted subsections (b)(15) and (b)(16).

The 1989 amendment, effective September 10, 1989, in subsection (b), substituted "money" for "funds, irrespective of their sources, including federal assistance except as otherwise specified in AS 36.30.890" in the introductory language, inserted "AS 44.47.250" in paragraph (11) and added paragraphs (18) — (21); and divided subsection (e) into two sentences, substituting "In this subsection, 'state money' includes" for "Including" at the beginning of the present second sentence.

Sec. 36.30.990. Definitions. In this chapter, unless the context in which a term is used clearly requires a different meaning or a different definition is prescribed for a particular provision,

(1) "agency" means a department, institution, board, commission, division, authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of the executive branch of state government, except for the University of Alaska, the Alaska State Housing Authority and the Alaska Railroad Corporation; it does not include a

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regional Native housing authority created under AS 18.55.996, or a regional electrical authority created under AS 18.57.020;

(2) "change order" means a written order signed by the procurement officer, directing the contractor to make changes that the changes clause of the contract authorizes the procurement officer to order without the consent of the contractor;

(3) "commissioner" means the commissioner of the Department of Administration;

(4) "competitive sealed bidding" means the procedure under AS 36.30.100 — 36.30.190;

(5) "competitive sealed proposals" means the procedure under AS 36.30.200 — 36.30.260;

(6) "construction" means the process of building, altering, repairing, maintaining, improving, or demolishing a public highway, structure, building, or other public improvement of any kind to real property other than privately owned real property leased for the use of agencies; it includes services and professional services relating to planning and design required for the construction; it does not include the routine operation of a public improvement to real property nor does it include the construction of public housing;

(7) "contract" means all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies, equipment for the state fleet, services, professional services, or construction;

(8) "contract modification" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract accomplished by mutual action of the parties to the contract;

(9) "department" means the Department of Administration;

(10) "employment program" means a nonprofit program to increase employment opportunities for individuals with physical or mental disabilities that constitute substantial handicaps to employment;

(11) "grant" means property furnished by the state, whether real or personal, designated by law, including an appropriation Act, as a grant;

(12) "person" means a business, individual, union, committee, club, other organization, or group of individuals;

(13) "procurement" means buying, purchasing, renting, leasing, or otherwise acquiring supplies, equipment for the state fleet, services, or construction; it also includes functions that pertain to the obtaining of a supply, equipment for the state fleet, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

(14) "procurement officer" means a person authorized to enter into and administer contracts for an agency and make written determina-

tions with respect to them; it also includes an authorized representative of a procurement officer acting within the limits of authority;

(15) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character, result in the production of a report or the completion of a task, and include analysis, evaluation, prediction, planning, or recommendation;

(16) "services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance; it does not include employment agreements or collective bargaining agreements;

(17) "state money" means any money appropriated to an agency or spent by an agency irrespective of its source, including federal assistance except as otherwise specified in AS 36.30.890, but does not include money held in trust by an agency for a person;

(18) "supplies" means all property of an agency, including equipment, materials, and insurance; it includes privately owned real property leased for the use of agencies, such as office space, but does not include the acquisition or disposition of other interests in land. (§ 2 ch 106 SLA 1986; am § 19 ch 102 SLA 1989)

Revisor's notes. — Paragraphs (10) and (17) were enacted as (17) and (18) respectively. Renumbered in 1989, at which time the remaining paragraphs were renumbered accordingly.

Effect of amendments. — The 1989 amendment, effective September 10, 1989, added present paragraphs (10) and (17).

Chapter 95. General Provisions.

Sec. 36.95.010. Definitions.

NOTES TO DECISIONS

Quoted in Municipality of Anchorage v. Tatco, Inc., Sup. Ct. Op. No. 3438 (File No. S-2697), P.2d (1989).

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House Committee on State Affairs

RECAP OF
HB 579

Defined Contribution Retirement Program

Received March 12, 1990
by The Finance Committee

Heard March 20, 1990

Letter of Intent Adopted March 20, 1990

Passed Out of Committee March 20, 1990
3 Do Not Pass
2 No Recommendation

TABLE OF CONTENTS

HB 579: Defined Contribution Retirement Program

HOUSE COMMITTEE REPORT

(7)
Date Referred: March 12, 1990 FURTHER REFERRALS: FINANCE

Date of Committee Action: ________

The STATE AFFAIRS Committee considered: HB 579

HOUSE BILL NO. 579 DEFINED CONTRIBUTION RETIREMENT PROGRAM
"An Act establishing the defined contribution plan for retirement for public employees; requiring the preparation of certain actuarial valuations and actuarial and financial experience analyses of the teachers' retirement system; requiring the teachers' retirement system and the public employees' retirement system to be fully funded before granting a post retirement pension adjustment; and providing for an effective date."

[ ] be replaced with ________ [ ] the same title [ ] a new title

[ ] have attached amendment(s)

[ ] do pass
[X] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the ________ Committee

ADOPTS: HSA 3/20/90 letter of intent

ATTACHES NEW FISCAL NOTE(s):

[X] fiscal impact
[ ] zero fiscal note
[ ] zero with analysis

APPROVES PREVIOUS:

[ ] fiscal note(s) published: ________
[ ] zero fiscal notes(s) published: ________

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

[signature] - No Rec
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[signature] - DO NOT PASS SERIOUS INTERIM WORK
[signature] DO NOT PASS WITHOUT THOROUGH REVIEW
Eileen P MacLean Do not Pass

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Chairman's signature

Alaska State Legislature

House of Representatives
COMMITTEE ON STATE AFFAIRS

LETTER OF INTENT
TO ACCOMPANY
HB 579

March 20, 1990

The House State Affairs Committee requests that HB 579 be placed in a Finance subcommittee for further review this session. The Committee further requests that no action be taken until a thorough review of this legislation's impact on the states'retirement and benefit program is completed.

Rep. H.A. "Red" Boucher, Chair
House State Affairs Committee

Room 102 Capitol Building, P.O. Box V, Juneau, Alaska 99811 (907) 465-4931

Alaska State Legislature

House of Representatives
COMMITTEE ON STATE AFFAIRS

MEMORANDUM

TO: Representative Ron Larson
Representative Lyman Hoffman

FROM: Representative H.A. "Red" Boucher, Chair
House State Affairs Committee

DATE: March 20, 1990

RE: HB 579

House Bll 579 passed out of the House State Affairs Committee on March 20th as promised. However, a number of questions and concerns were raised by all members. You should note that this bill received two "no recommendations" and three "do not pass".

The attached "Letter of Intent" expresses the concerns of the Committee and requests that HB 579 receive considerable scrutiny and review during the interim.

Thank you.

Room 102 Capitol Building, P.O. Box V, Juneau, Alaska 99811 (907) 465-4931

Item 2

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: HB 579
Publish Date:

FISCAL NOTE-A

REQUEST:

Revision Date:
Title: An Act creating a defined contribution plan.
Sponsor: House Finance Committee
Requestor:

Agency Affected: Defined Contribution Retirement (DCRP)
BRU: DCRP
Components: DCRP

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	1,405.9	1,476.2	1,550.0	1,627.5	1,708.9	1,794.3
TRAVEL	108.0	84.0	84.0	84.0	84.0	84.0
CONTRACTUAL	1,658.5	1,658.5	658.5	658.5	658.5	658.5
SUPPLIES	110.0	110.0	110.0	110.0	110.0	110.0
EQUIPMENT	464.1	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	3,746.5	3,328.7	2,402.5	2,480.0	2,561.4	2,646.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	3,746.5	3,328.7	(707.7)	(707.5)	(707.5)	(707.5)
FEDERAL FUNDS						
OTHER			3,110.2	3,187.5	3,268.9	3,354.3
TOTAL	3,746.5	3,328.7	2,402.5	2,480.0	2,561.4	2,646.8

POSITIONS:

FULL-TIME	28	28	28	28	28	28
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

See page three for a more detailed analysis.

This fiscal note proposes that the State prefund the start-up costs in the first two years and that the system pay the State back over the following 10 years.

Prepared by: Sally Smith *Sally Smith*
Phone: 465-4470
Division: Retirement and Benefits
Date: March 16, 1990

Approved by Commissioner: Frank S. Baxter, CPA *Gary M. Bader for*
Date: 3/19/90
Agency: Department of Administration

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

9/6K9/031903-0/1&2

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: HB 579
Publish Date:

FISCAL NOTE—B

REQUEST:

Revision Date:
Title: An Act creating a deferred contribution plan.
Sponsor: House Finance Committee
Requestor:

Agency Affected: Department of Administration
BRU: Retirement and Benefits

Components: Retirement and Benefits

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	102.0	107.1	112.5	118.1	124.0	130.2
TRAVEL	50.0	50.0	50.0	50.0	50.0	50.0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	.4	.4.	.4	.4	.4	.4
EQUIPMENT	46.0	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	198.4	157.5	162.9	168.5	174.4	180.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	198.4	157.5	162.9	168.5	174.4	180.6
TOTAL	198.4	157.5	162.9	168.5	174.4	180.6

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Sally Smith Sally Smith
Phone: 465-4470
Division: Retirement and Benefits
Date: March 16, 1990

Approved by Commissioner: Frank S. Baxter, CPA Gary N. Bader for
Date: 3/19/90
Agency: Department of Administration

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

9/6K9/031903-0/384

Rev: 11/89

House Bill 579
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration
March 19, 1990

Analysis: The provisions concerning the administration of this plan are very vague. The attached fiscal note represents our estimation of the administration required by this bill. The fiscal note is premised on the following assumptions:

Concerning the new plan: (Fiscal Note A)

* A completely new and autonomous board.
* A board with the authority to appoint an administrator and establish the administration of the plan as a separate Public Corporation.
* A board with full oversight authority to make policy decisions regarding operation of the plan.
* A board with autonomous budget approval authority with oversight from the legislature.
* Administration of the Plan which is not subject to the Alaska procurement code or the personnel rules.
* Complete development of automated systems to manage the plan.
* Participation by the employers who currently participate in the Public Employees' (PERS) and Teachers' Retirement Systems (TRS).
* Participation by the same number of members who currently participate in the PERS and TRS.
* A start up time of at least two years and the costs would be paid by the state in the first two years and repaid by the system over the next ten years.

Concerning the PERS and TRS: (Fiscal Note B)

* Additional staffing for five years to answer the questions the current members will have concerning transfer to the new plan.
* A reduction in new membership, however, continued effort provided to current membership and retired members.
* Increases in the PERS and TRS appropriations of $100.0 each.

The total estimated administrative cost to the DCRP (Fiscal Note A) by fiscal year is as follows:

Personnel services costs:	FY 90	FY 91	FY 92
1 Executive Director	$ 90.0		
1 Administrative Officer II	70.0		
1 Secretary II	33.7		
1 Administrative Assistant	45.8		
1 Clerk IV	45.8		
1 Micrographics Machine Operator	45.8		
2 Clerk III	60.0		
1 Retirement & Benefits Supervisor	70.0		
2 Retirement Specialist III	104.0		
2 Retirement Specialist I/II	91.6		
2 Retirement Tech. I/II	74.6		
1 Accounting Supervisor V	70.0		
1 Accountant III	52.0		
1 Accounting Tech III	45.8		
2 Accounting Tech II	74.6		
2 Accounting Clerk III	67.4		
1 Accounting Clerk II	30.0		
1 Data Processing Manager I	70.0		
1 Programmer/Analyst V	63.6		
2 Programmer/Analysts III/IV	110.6		
1 Programmer/Analyst I/II	90.6		
Total FY 91		$1405.9	
Total FY 92			$1476.2

Travel:				
Board Meetings 8 time in first year 6 time each year thereafter	72.0	48.0		
Field Travel by Staff				
Counseling	24.0	24.0		
Auditing	12.0	12.0		
Total FY 91			108.0	
Total FY 92				84.0

Contractual:	FY 91	FY 92
COMPUTER SYSTEM DESIGN New Computer system design. This system will much more complex than the State's SBS system, due to the participation of approximately 200 different employers. For each of fiscal years 91 and 92 the system design will cost $1000.0.		
ONGOING CONTRACTUAL NEEDS These costs include services for the following: telephone, actuarial consulting, annual CPA audit, computer hookup, long distance charges, office rent, etc. The ongoing contractual needs will cost $658.5 for each fiscal year.		
Total Contractual	$1658.5	$1658.5
Supplies: These cost will be ongoing for the 28 employees and include; office supplies, newsletters, postage, paper, copy machine, board meeting supplies, etc.	110.0	110.0
Equipment:	464.1	0.0
TOTAL SYSTEM COSTS:...................	$ 3746.5	$3328.7

The office staff will need constant access to the DCRP computer files. They will need terminals or personal computers, microfiche viewers, calculators, office furniture, chairs, board furniture, filing cabinets, copy machines, a microfiche machine for file maintenance and other necessary equipment. We propose the purchase of personal computers to be used as terminals because they will be compatible with the system's Local Area Network.

Item 3

NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE
1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE
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(907) 586-3090

FAIRBANKS REGIONAL OFFICE
2118 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
(907) 456-4435

March 19, 1990

To: Representative Red Boucher, Chair
Members, House State Affairs Committee

Re: House Bill No. 579
"An Act establishing the defined contribution plan for retirement for public employees; requiring the preparation of certain actuarial valuations and actuarial and financial experience analyses of the teachers' retirement system; requiring the teachers' retirement system and the public employees' retirement system to be fully funded before granting a post retirement pension adjustment; and providing for an effective date."

NEA-Alaska has grave concern relative to HB 579 and urges cautious and extensive consideration by the Committee.

It prospectively changes the Teachers' Retirement System (TRS) from a defined benefit system to a defined contribution system.

We strongly feel that any changes of this magnitude require extended study, analyses, and review before consideration by the Legislature of possible statutory revision.

To the best of our knowledge, very few states utilize defined contribution systems for their public school teacher retirement programs.

Absent any specificity in HB 579 relative to a benefit structure we respectfully disagree with the statement in the Purpose section of the bill which suggests that this new defined contribution system will "encourage qualified personnel to enter and remain in public service." It may in fact become a disincentive.

There are far too many unanswered questions regarding the need for this legislation and, most importantly, employee contribution rates and specific retirement benefit provisions.

In regard to Section 7 on page 16 we call to the Committee's attention the fact that legislation is currently being considered on the Senate side, SB 53, which specifically addresses matters pertaining to the full funding of post retirement pension adjustments under the TRS.

It is our hope that this legislation will receive favorable consideration and become the vehicle to resolve this specific concern.

This particular bill will provide for an increase in the employee contribution rate from the current 7% to 8.65%.

After only limited review we have a number of concerns regarding HB 579, including but not limited to the nature of selection and composition of the Board, its authority and responsibility, employer and employee contribution rates, and of course, the benefit system.

NEA-Alaska is willing to work with the Committee in seeking the best options and opportunities to improve upon our retirement systems.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners
Executive Secretary

Don Oberg
President

cc: TRS Board Members

Item 4

STATE OF ALASKA

ANALYSIS OF RETIREMENT PLANNING ALTERNATIVES

OCTOBER, 1989

TABLE OF CONTENTS

SECTION 1
INTRODUCTION

The purpose of this analysis is to review alternative retirement programs available to the State of Alaska and discuss the advantages of each type of program. Section 2 discusses the traditional defined benefit and defined contribution plans. Section 3 describes some hybrid plans, combining features from both defined benefit and defined contribution plans. Section 4 contains some basic questions on retirement needs which should be addressed before a change in retirement program is made. Section 5 contains other issues which will affect employees' retirement benefits depending on the type of plan used. Section 6 contains a description of the types of retirement vehicles available to the State of Alaska.

SECTION 2

DEFINED BENEFIT VS. DEFINED CONTRIBUTION

The Employee Retirement Income Security Act of 1974 coined the terms defined benefit and defined contribution and then classified all retirement plans as one or the other. Since ERISA, innovations in retirement planning have breached the wall between defined benefit and defined contribution plans by dressing up plans on one side with attractive features from the other side. Today, many kinds of hybrid plans have been developed, combining features of both approaches. The basic categories, however, are still valid.

Defined Benefit

Defined benefit plans promise to pay participants a specified benefit, usually a percentage of final pay, at retirement for the participant's lifetime. Therefore, defined benefit plans provide security of retirement income. Employees do not share the risk of poor investment performance, so there are no problems with participants making the wrong investment decisions and suffering as a result. Generally, money buys more retirement income for retirees in a defined benefit plan because benefits build up more slowly and employees who leave the system take away smaller entitlements as separation benefits. Employers are spared the expense and trouble of complicated recordkeeping and allocations and have a certain degree of flexibility in their plan contributions. For example, when an employer enters PERS, the employer may choose the amount of past service, if any, to grant employees, which will affect the employer's contribution rate.

Defined Contribution

Defined contribution plans specify an annual contribution to a participant's account, with no guarantee as to the ultimate retirement benefit. These plans may be easier for employees to understand because they resemble bank accounts with individual balances. Periodic account statements keep the plans visible to employees. Such plans can easily accept employee contributions, encouraging people to save for their own retirement and take some of the burden off the employer's shoulders. Defined contribution plans can offer investment options, so that employees can attempt to choose the risk/reward profile best suited to their own financial circumstances. Benefits usually build up faster and vesting tends to be more rapid, which is attractive to employees who intend to change jobs. They can usually take lump-sum settlements with them to another employer plan or roll them over into an IRA. The SBS System is an example of a defined contribution plan.

While it is more common for defined contribution plans to accept employee contributions, in the public sector defined benefit plans also commonly require employee contributions. This is because of Section 414(h) of the Internal Revenue Code, which allows public entities to "pick up" employee contributions, converting them to pre-tax contributions, in any qualified retirement program. The State of Alaska is taking advantage of this in PERS, TRS and SBS.

SECTION 3
HYBRIDS

A number of hybrid plans have been developed since ERISA, which combine the advantages of defined benefit and defined contribution plans.

Target Defined Contribution Plan

A target plan is a defined contribution plan which sets the employer contribution rate such that contributions are expected to accumulate to a target replacement income at retirement. The contribution for each individual is changed every year as the individual's salary changes. Younger employees, since they have a longer time in which to build up account balances, will be allocated smaller contributions. Older employees may receive higher contributions due to the shorter time frame in which to build up the account balance to the target level. This type of plan combines the advantages of targeting a replacement percentage of income with the advantages of an account-based plan.

Floor/Offset Plan

This is actually two plans, a defined benefit and a defined contribution plan working together. The defined benefit plan provides a minimum retirement benefit. If contributions and investment performance are acceptable, the defined contribution plan will provide an adequate retirement income and the defined benefit "floor" plan will not activate. However, if the defined contribution plan does not provide sufficient income at retirement, the floor plan makes up the difference to the minimum level. This is basically a defined contribution plan with a guaranteed minimum benefit if the defined contribution balance is not adequate.

Account-based Plan

An account-based plan is a defined benefit plan which is communicated to employees as a defined contribution plan, with individual account balances. Employee accounts are credited with a specified contribution annually and a specified investment return, both of which may be different than the actual contribution to and investment performance of the fund. Any differences between credited investment performance and actual investment performance, as well as other assumptions as to salary increases and turnover, are made up through changes in the required employer contribution level. This type of plan was first publicized a few years ago when the Bank of America adopted it for its retirement program.

SECTION 4
THE BASICS

The economic, political and social environment in which retirement plans are conceived and executed has changed greatly in the 1980's and no doubt will continue to change. The global economy seems volatile and unpredictable. Congress makes significant changes in employee benefit law with practically every year's tax bill. The federal income tax structure is radically changed by tax reform, but few observers believe that the new low rates will stay low. The demographics of the work force, already in flux, will have even more dramatic changes in the years ahead as the Baby Bust generation follows the Baby Boom into the work place.

How can employers make reasonable decisions about long-term commitments, such as retirement plans, when so many factors affecting these plans are in flux? This is a far more critical question than the old, simplistic choice between defined benefit and defined contribution plans.

When seas are stormy, it becomes even more important to have a good compass and an accurate understanding of where you want to go. Similarly, employers trying to make difficult decisions about retirement plans in an environment of change and confusion need to start at a more fundamental level: exactly what do they want to accomplish with their retirement program?

This question requires analysis from two, sometimes different, perspectives. Analysis of employer needs and assessment of employee needs must both be weighed before a unified course can be charted.

Employer priorities can be determined by answering several questions:

- What composition of work force am I looking for? (experience age, etc.)
- Can I attract targeted specialists to employ with my organization through drafting specialized benefits?
- Are the current retirement plans satisfying my organization's needs?
- What can the organization afford vs. benefit gained?
- Can I expect future revenues to satisfy future funding needs?

Retirement planning for employee needs involves several questions:

- How much retirement income is needed?
- At what age should full benefits be paid?
- How quickly in an employee's career should benefits build up?
- How should the cost of providing retirement income be divided between employer and employee?

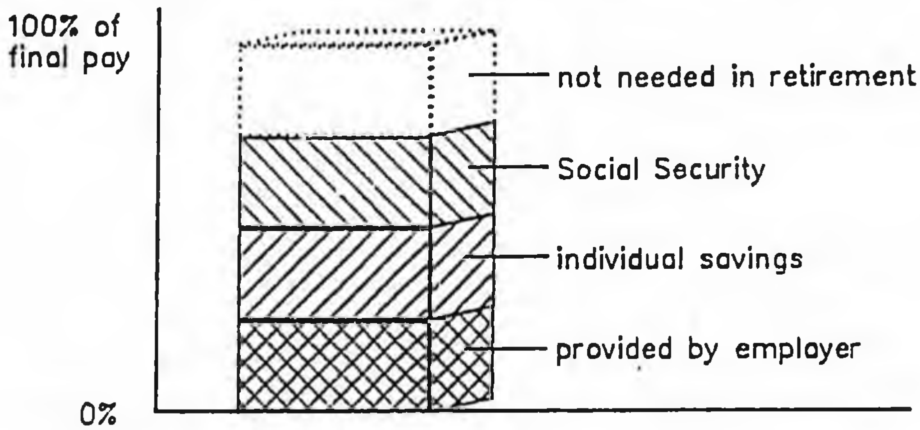
Only after these questions have been answered is it time to move on the last question:

- What kind of plan, or combination of plans, will accomplish these goals?

One way to answer this question is to use a financial model to calculate retirement income in terms of replacing the employee's final pay at retirement age. We start with the assumption that for an individual employee, "total adequacy" in retirement income means 100% replacement of final earnings after taxes. (Some employers may decide that it is alright for employees to have a slightly lower standard of living after retirement.)

In this model, 100% replacement includes four components, as shown in Chart 1. The first is a reduction element, since after retirement people do not generally need as much money to maintain the same standard of living. The next three components are the three sources of retirement income: Social Security, personal savings and employer-provided pensions. (For the State of Alaska, Social Security may be replaced by the SBS System.)

Chart 1
Four components of replacing income in retirement



Of the four components, reduction in need and personal savings are the most difficult to quantify - and for employers to plan for. Retirement age is another important variable.

The answer to the question as it concerns employers is more appropriately financial in nature. A determination must be made whether the employer can use the retirement plan, in conjunction with other employer sponsored benefits to attract and retain quality employees.

Is the strength of the operation or funding source strong enough to guarantee funds into the future?

Can a defined contribution plan attract the specialists that the organization needs? If not, should there be a combination with a defined benefit plan or sole use of a defined benefit plan?

With this basic model, employers can determine need and answer the above questions based on their individual circumstances.

SECTION 5
OTHER ISSUES

There are many issues and circumstances which may arise that will affect the retirement benefits differently for the employee. The success of securing quality employees for the employer depends upon these circumstances and the type of plan implemented.

Issues which the State must keep in mind in determining the best type of plan to serve it's future needs are as follows:

Geographic Variances

Throughout a state as large and diverse as Alaska, there are vast differences in the cost of living from one area to another. There are also major socioeconomic differences between the few major urban areas and the numerous rural (bush) communities. Not only are all consumer goods and housing costlier in a rural setting, social adjustment for those reared in an urban setting tend to deter many qualified employees from locating in the "bush".

The defined benefit plan can be crafted including provisions which would provide incentives, recognizing employment in rural communities. A defined contribution plan would be more difficult to craft for providing incentives to rural employees, especially if the plan covered employees in both urban and rural communities.

Investment Performance

Who should suffer if investment performance is poor, or receive the windfall if returns are higher than anticipated? In traditional defined contribution plans, the employee bears the entire investment risk. In defined benefit plans, the employer bears this risk through changes in future contribution rates. In the defined benefit portion of a floor/offset arrangement, the employer bears the investment risk. The defined contribution portion of this arrangement shifts the risk to the employees. Account-based plans can place the risk on the employer or the employee, depending on plan design. Employees bear the entire risk in target plans.

Costs

A primary consideration in retirement planning is the cost to the employer to provide a certain level of benefits. Obviously, the first determinant of cost is the level of income replacement the company wants to provide. Secondly, where should the line be drawn between employer and employee responsibilities? Then there is the build-up pattern. It costs considerably more to build up benefits early than late. A final determinant of cost is how the risk for unforeseen events is assigned.

As discussed earlier, defined benefit plans generally cost less than defined contribution plans to provide the same target benefit at retirement. This is because of the early build-up pattern of a defined contribution plan versus the late build-up pattern of a defined benefit plan.

Plan Complexity

Whether a plan can be easily communicated is an issue that should be considered in the early stages of planning. It is possible to design a plan that perfectly fits the income replacement objectives and allows plenty of flexibility for fine tuning, but is almost impossible for employees to understand. Overly-complicated plans also tend to be difficult to administer, another issue that should be considered in the planning stages.

Defined contribution plans tend to be more easily understood by employees because of the account-based nature of the plan. Many of the hybrid defined benefit plans attempt to express benefits in an account-based manner to help overcome this issue. Good communication can often overcome the complexities of any retirement program.

<u>Local Area Growth or Decline</u>

Employers may be impacted by a growth or decline in population or radical shifts in the economic stability of the area. This is especially true in Alaska where the "Boom or Bust" economy seems traditional in the "bush" communities. This action can result in a continuous swing of the number of employees working for a public employer as the community service needs vacillate by population changes.

A traditional defined contribution plan will be affected less by dramatic shifts in employee numbers. The contribution rate is set by plan document and the cost to the employer will always be in direct proportion to the number of employees working. There are advantages for employees under these circumstances because of the portability of the contributions from one employer to another or to a private tax qualified plan.

Issues which the State must keep in mind in determining the best type of plan to serve the future needs of it's employees are as follows:

Unexpected Salary Increases

Fast-track employees do not have the standard salary progression that retirement planners anticipate. Under certain kinds of plan design, particularly the traditional defined contribution plan, they will be penalized compared to other employees who have achieved the same final salary in a more predictable fashion. Under the defined benefit design, the plan compensates to make up the difference. All of the hybrid types of plans mentioned help compensate for unexpected salary changes.

Special Benefit Increases

This would include paying additional benefits for early retirement or disability, providing post-retirement increases in benefits, or changing overall objectives for adequate retirement income. Defined benefit plans have traditionally been a better vehicle for providing immediate changes in benefit levels. This is primarily because the employer can pay for these "unfunded liabilities" after the fact through increased contributions. It would be practically impossible to provide post-retirement pension adjustments in a defined contribution type of plan.

Portability

The State has over 40,000 employees in a variety of jobs. Currently there are numerous retirement programs covering these employees, including PERS, TRS, JRS, National Guard, EPORS, UVPARP and SBS. Many employees also moved to Alaska to take jobs, bringing with them service and retirement benefits from other State and private retirement plans. Employees move among the retirement systems, creating a need for effective portability.

Traditional defined contribution plans generally provide portability easier than defined benefit plans. Account balances may simply be withdrawn from one system and rolled into another system without loss of earnings or years of service. This also keeps all of an employee's money in the system in which he or she is currently employed.

Defined benefit plans are more difficult to make portable. Particularly final average pay plans, such as PERS and TRS, raise issues of equity. If an employee works under TRS for ten years and then PERS for ten years, should the ultimate benefit be split 50/50 between the two systems or should PERS pay a larger portion of the benefit if the employee's final average earnings are larger than earnings under TRS? This and other issues may be resolved in a defined benefit plans, however, the defined contribution plan provides a more effective vehicle for portability.

Plan Complexity

The same issues raised above under Plan Complexity are appropriate for the employee as well as the employer. As discussed, defined contribution plans tend to be more easily understood by employees because of the account-based nature of the plan. Many hybrid defined benefit plans, however, are overcoming this issue by expressing benefits in an account-based manner. Good communication is a key to helping employees understand the plans.

Other Pre- and Post-Retirement Medical Benefits

PERS and TRS currently provide both death and disability benefits to participants. These benefits are equal to a percentage of salary regardless of age and service, and are generally paid as annuities. Defined contribution plans have no mechanism for providing similar types of benefits which are not related to benefits accrued under the plan. The benefits could be purchased outside the plans from an insurance carrier or be self-insured.

Currently, post-retirement medical benefits are provided under PERS and TRS. The cost of these benefits are borne by the employers and have been a major influence on the volatility of employer contribution rates year to year. A defined contribution plan has no mechanism for protecting employees from the volatile cost of medical benefits. On the other hand, part of the contribution to a defined contribution plan could be earmarked to pay for post-retirement medical benefits. This would shift the risk of volatility to the employee unless a mechanism for special one-time contributions to retired participant accounts could be made to help make up deficiencies.

SECTION 6

RETIREMENT VEHICLES

The State of Alaska is a public entity with the following types of retirement plans available to it:

401(a) Qualified

The State of Alaska can have any type of defined benefit or defined contribution money purchase plan which is qualified under Internal Revenue Code Section 401(a). The State may not implement a 401(k) (cash or deferred arrangement) profit-sharing plan. PERS, TRS and SBS are all retirement programs qualified under Internal Revenue Code Section 401(a).

Section 457

The State may have a nonqualified deferred compensation arrangement under Internal Revenue Code Section 457. The Deferred Compensation Plan (DCP) qualifies under this section of the code. Any nonqualified retirement plan established by the State must meet the qualifications of Code Section 457.

Tax Sheltered Annuities

The State may implement a tax sheltered annuity (TSA) program which allows employees to contribute money to a qualified plan on a tax deferred basis.

RPALT/GBS/js

2 AAC 36.210 repealed and readopted to read:

2 AAC 36.210. ALASKA COST OF LIVING ALLOWANCE. (a) The Alaska cost of living allowance established under AS 14.25.142 accrues from the first day of the month after written application from the member, on a form prescribed by the administrator, is either hand-delivered to the division of retirement and benefits, or is mailed to the division of retirement and benefits and postmarked from within Alaska. If a mailed application has a postmark on which the date is missing or illegible, the postmark day is rebuttably presumed to be five working days before the day the application was received by the division.

(b) Except as otherwise provided by AS 14.25.142, a member must be domiciled and physically present in Alaska to receive a cost of living allowance under AS 14.25.142. A member is not domiciled and physically present if the member is not actually present in Alaska for either: 1) at least 183 days during any 365 day period; or 2) at least 183 days during any calendar year. A member, forfeits the cost of living allowance retroactively to his or her last day in Alaska on failure to meet this requirement. Upon request by the administrator, the member must provide evidence of periods that the member has been present in the state.

(c) If a member whose Alaska cost-of-living allowance is removed because of an absence expected to exceed 90 days returns to Alaska in less than 91 days and otherwise meets the requirements of this section, the Alaska cost-of-living allowance will be awarded retroactively to the date it was removed. (In effect before 10/21/83, Register 93; am 5/3/89, Register)

Authority: AS 14.25.022
AS 14.25.035
AS 14.25.142

WILLIAM M.
MERCER MEIDINGER HANSEN
INCORPORATED

September 22, 1989

Mr. Robert F. Stalnaker, Deputy Director
State of Alaska
Department of Administration
Division of Retirement & Benefits
P.O. Box CR
Juneau, AK 99811

RECEIVED
SEP 25 1989
POSTMARK
DIV. OF RETIREMENT & BENEFITS

Re: Proposed PRPA

Dear Bob:

Based upon a proposed 4% PRPA, we have developed the following statistics:

	PERS	TRS
Number of Retirees	6,967	3,098
Average Benefit Increase	$ 38/mo.	$ 72/mo.
Aggregate Monthly Benefit	$ 266,549	$ 224,214
Increase in Unfunded Liability	$26,100,000	$20,821,000
Decrease in Funding Ratio	1.1%	1.5%
Percent Living in Alaska	66%	62%
Cost as a Percentage of Payroll	.26%	.54%
State Payroll (includes U of A and GEO)	$492,685,000	$56,607,000
Annual State Cost	$ 1,281,000	$ 306,000

Sincerely,

Brian

Brian R. McGee, FSA
Principal

BRM/GTM/js

WILLIAM M.
MERCER MEIDINGER HANSEN
INCORPORATED

September 29, 1989

'89 OCT -2 P3:47

Mr. Robert F. Stalnaker, Deputy Director
State of Alaska
Department of Administration
Division of Retirement & Benefits
P.O. Box CR
Juneau, AK 99811

Re: Automatic PRPA for TRS

Dear Bob:

The TRS Board has requested an analysis to determine the impact on TRS for converting the current ad hoc PRPA program to an automatic PRPA. Automatic adjustments could be provided by either of the following methods:

(1) Adopt the current method for providing ad hoc PRPAs.

(2) Adopt an automatic PRPA similar to the provisions under PERS.

Ad Hoc PRPA Method

This method would provide the current ad hoc PRPA on an automatic basis. The maximum adjustment would be 4% compounded annually from retirement. Lesser adjustments will occur if the cost-of-living increase is less than 4%.

We have calculated that passage of such a bill will increase the employer contribution rate by 18.00% of TRS payroll and reduce the funding ratio by 25.9%. As you can see, Bob, without any limits, this is a very costly provision.

PERS Automatic PRPA Method

Another method would be to adopt an automatic PRPA similar to the provision PERS adopted in 1986. Under this provision, the increase in benefit payments applies to total benefits, except for the cost-of-living allowance. The amount of the increase is equal to the lesser of 75% of the increase in the cost of living, or 9%, for pensioners at least age 65 and older or receiving disability benefits. The increase would be the lesser of 50% of the increase in the cost of living or 6% for pensioners who are at least age 60 but less than age 65, or for pensioners who are less than age 60 but who have been receiving benefits for at least five years.

One Union Square • 600 University Street Suite 2200 • Seattle Washington 98101-3137 • 206 292-7000

We have calculated that passage of such a bill will increase the employer contribution rate by 6.66% of TRS payroll and reduce the funding ratio by 10.9%.

Other Alternatives

More than half of the cost of the PERS type automatic PRPA is attributable to nonactive members of TRS (current retirees and terminated vested members). PRPAs for these members presumably will always be subject to ad hoc adjustments. Therefore, you could implement the automatic PRPA for only current active members of TRS, with continuation of the ad hoc PRPA's for inactive members, at less than half of the 6.66% cost.

Similarly, you could reduce the cost of converting the 4% ad hoc PRPA to automatic by applying it only to active employees. The cost savings is about one-third in this case.

Please call, Bob, if you have any questions.

Sincerely,

Brian

Brian R. McGee, FSA
Principal

BRM/js

Item 5

MERCER MEIDINGER HANSEN

March 19, 1990

Mr. Robert F. Stalnaker
Deputy Director
State of Alaska
Department of Administration
Division of Retirement & Benefits
P.O. Box CR
Juneau, AK 99811

Re: House Bill 579

Dear Bob:

House Bill 579 would effectively establish a two-tiered retirement structure in the State of Alaska. All new employees would be covered by a defined contribution plan, while current employees could elect to remain in the defined benefit plan or transfer to the new defined contribution plan. The purpose of this letter is to comment on the bill and its affect on the State retirement programs.

The ultimate cost of the new defined contribution plan will simply equal the contribution rate established for the plan, 9.65% of payroll. The initial cost to the State will be a blending of the current defined benefit and new defined contribution rates, as participation in the defined benefit plan declines and participation in the defined contribution plan rises.

Since current employees in the defined benefit plan will be able to opt into the defined contribution plan, we would expect some anti-selection to occur: employees who would benefit most will elect to transfer. Offsetting this is the lower contribution rate required under the defined contribution plan. Therefore, we would expect the overall contributions to State retirement programs would be approximately the same as they are now. Over time, the rates will decrease to 9.65%.

I have taken an informal survey of Mercer consultants and have found no other state or local retirement system which has established a two-tiered structure with a defined contribution and defined benefit plan. There are, however, numerous city retirement systems, both in the States of Washington and Colorado, which have two-tiered defined benefit plans for police and firefighters. These systems sometimes occur when a change is made in the agency responsible for funding the plan. Both the plan for "old hires" and the plan for "new hires" are defined benefit plans in these cases.

In addition, we found in Maryland that a two-tiered defined benefit structure exists as the result of cost containment measures. This is similar to the situation in the Alaska Public Employees' Retirement System from the changes implemented in 1986. Some other public sponsors have hybrid plans, combining features of defined benefit and defined contribution plans.

The following are some thoughts on the structure of the bill and how it might affect retirement benefits in the State:

(1) Will health benefits continue to be provided for employees participating in the defined contribution plan? Health benefits are currently funded in the defined benefit plan. This approach would not be possible in a defined contribution plan. A portion of the employee's account may be set aside to provide for health benefits, but the full amount needed won't be known and may not be available at retirement.

(2) The bill amends AS 14.25.143(a) and AS 39.35.475(a), allowing for increased retirement benefits if the System is determined to be fully funded. What does "fully funded" mean?

Is this section of the statutes going to apply to the defined contribution plan? If so, how would the additional benefit payments be funded? In a defined contribution plan, all gains and losses from investment return are allocated to individual accounts, so there are no excess assets or unfunded liabilities at any time. The same is true for COLA's. There would be no excess assets which could be used to fund the additional 10% for State residency.

good points

(3) Both PERS and TRS currently provide for minimum benefits in the defined benefit plan. A defined contribution plan could not provide for minimum retirement benefits, since there are no actuarially funded benefits. In addition, a defined contribution plan cannot grant past service benefits.

(4) The bill does not set an employee contribution rate, and limits whatever rate is chosen to at least one-half of the employer contribution rate. Why is this rate not spelled out in the statute? In a defined contribution plan, the benefit at retirement simply equals the amount of money accumulated in an employee's account. The risk associated with gains and losses from year to year is shifted from the employer to the employee. Contribution rates are not actuarially determined, and therefore do not fluctuate from year to year.

(5) The employer contribution rate is fixed at 9.65% of pay in the statute. Where does this rate come from? Is it tied to the amount of benefit expected to be provided at retirement?

(6) AS 39.38.230 should be expanded to provide how and when benefits can be paid. The investment contracts for a defined contribution plan typically will not dictate the payment options. Instead, they can be set by the statutes. Payment of benefits in a defined contribution plan is usually a detailed section of the plan provisions. For example, lump sum benefits are a common payment option under a defined contribution plan.

(7) AS 14.25.035(c) is amended to include actuarial valuations of the System and a determination of contribution rates and unfunded liabilities. Is this section applicable to the defined contribution plan? Actuarial valuations are not required for defined contribution plans, since there are no unfunded liabilities and the contribution rates do not vary from year to year.

(8) There is no mention of vesting in the new defined contribution plan. If vesting is not immediate, forfeitures from non-vested terminated employees should be addressed. This money could be used to offset employer contributions or it could be reallocated to remaining participant accounts.

(9) There appears to be a conflict with the new University of Alaska optional University retirement program. Employees will be able to choose between two defined contribution plans. If the State plan provides a larger contribution, no employees will elect the University plan, effectively eliminating it.

The bill as drafted, Bob, would be difficult to administer without some of these questions clarified. In addition, significantly different levels of benefits would be payable under the new plan compared to the current plans for most employees. A task force could be established to study the ramifications of a defined contribution plan for the State before proceeding with legislation. As you recall, the TRS Board requested some information to study this issue at their 1989 Fall Board Meeting. Much of that material is germane to the issue, including the possibility of certain hybrid arrangements, like floor/offset, target benefit or cash balance plans. A task force should be able to identify the problems with the current system and propose appropriate ways to solve them.

Bob, these are my initial thoughts on this Bill. I'll keep you informed as additional information is available. If you have any further questions, please let me know.

Sincerely,

Brian

Brian R. McGee, FSA
Principal

BRM/HPG/js

1, ~ ulmer

STEVE COWPER, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF PIONEERS' BENEFITS

P.O. BOX CL
JUNEAU, ALASKA 99811-0211
PHONE: (907) 465-4400

March 19, 1990

The Honorable Fran Ulmer
Alaska State Representative
P.O. Box V
Juneau, AK 99811

ATTN: Kate Tesar

Dear Representative Ulmer:

The Division of Pioneers' Benefits recently amended its FY 91 budget request to include a $400,000 increment to fund the design and implementation of a data processing system for the Longevity Bonus program. This was not approved for inclusion in the operating budget. You asked what would happen if the increment were not approved. In responding, I avoid technical detail; if you want a technical explanation of the situation, I will be happy to provide it.

As you know, the mainframes operated by the Department of Administration and the Legislative Affairs Agency are being consolidated in an attempt to expand the State's data processing capacity. The vendor is phasing out support for operating systems which support the Longevity Bonus application. When this occurs, the Longevity Bonus can no longer be run.

In a worst case scenario, lack of hardware/software support would prevent the division from issuing monthly checks to 20,000 Longevity Bonus recipients. In January, the Division of Information Services (DIS) informed me that support would cease in September 1990 and that converting our program to coding compatible with the new operating system would take about six months and cost nearly $100,000.

The current program code is nearly twenty years old, largely undocumented and subject to frequent breakdown. The Director of DIS compared the Longevity Bonus system to an old car, with the September deadline analogous to an auto manufacturer's decision to halt production of parts; one can continue to drive the car, but only until a critical part fails. Given that check production has been on an emergency basis in two of the last four months, it should be obvious that a critical breakdown can occur at any time.

This situation demands immediate action, hence you may question the Department's decision to submit an FY 91 budget amendment rather than an FY 90 supplemental request. You should be aware that documentation of the system is underway and that we are exploring options involving the payroll, Permanent Fund dividend and unemployment insurance programs as well as a mini or micro computer-based system. Given the programming requirements and the possibility of major legislative changes to the Longevity Bonus program, we determined that we would not be ready to formally begin the RFP process until FY 91.

The more likely "no funding" scenario is that the current system will continue to operate on a "band-aid" basis. However, the cost of maintaining the system, both in dollars and in resources diverted from other applications, would be high. In addition, a critical breakdown can occur at any time and delay payments for an indefinite period. Without additional funding, the DIS simply does not have the staff or the budget to convert or reliably maintain the current system.

You may wish to know why the estimate for conversion has grown from $100,000 to $400,000. The original estimate was a "quick and dirty" figure reflecting the anticipated cost of recoding the existing system to do no more than it now does. The existing system simply writes checks; it provides virtually no management information, security, financial audit capability or ability to analyze the potential impact of program revisions. Data scrolls off the screen after six months and is lost forever.

Given this lack of scrutiny and control over a program which distributes nearly $60 million annually, our decision was to replace the existing system with a "solution package" rather than to simply keep the checks rolling. One such solution is to take advantage of the capabilities of the new payroll system. Price Waterhouse estimated that incorporating the Longevity Bonus system into the payroll system would cost from $250,000 to $320,000. This estimate was based on continued use of the existing IRS reporting system and the reapplication tracking system. These programs are primary components of the existing system and need conversion/revision, at substantial additional cost.

We continue to explore options and are not yet in a position to explain exactly what solution will be achieved at exactly what cost. In size and level of complexity, the Longevity Bonus system is bracketed by two programs which were recently upgraded at a cost of $250,000 and $660,000. I hope that $400,000 is sufficient to allow the design and implementation of a system worthy of a $60 million program.

Sincerely,

D Teal

David Teal
Administrator
Longevity Bonus Program

cc: Commissioner Frank Baxter
Department of Administration

Jim Fox, Deputy Commissioner
Department of Administration

Barbara Bathony, Director
Division of Pioneers' Benefits

Mike Maher, Director
Division of Administrative Services

Paul Monette, Director
Division of Information Services

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : SCSCSHB 580
PUBLISH DATE :

FISCAL NOTE

REQUEST:

Revision Date: 5/3/90
Title : An Act relating to management and investment of certain State funds
Sponsor : Finance Committee
Requestor : State Affairs

Agency Affected : Administration
BRU : Centralized Administrative Services
Components : Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
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
REVENUE	0	0	0	0	0	0

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

ANALYSIS : (Attach a separate page if necessary)

~~See attached page~~. No change from previous fiscal note

Prepared by : Keith Busch, Director Keith Busch
Division : Finance
Phone : 465-2240
Date : 5-2-90

Approved by Commissioner : Frank S. Baxter Frank Baxter
Agency : Department of Administration
Date : 5/3/90

Distribution (by preparer) :
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

HB 580 does not appear to have any impact on the Division of Finance in its present form. The primary changes appear to be wherever in the Statutes it formerly had "Commissioner of Revenue" it will now have "State Investment Board" and a new section of the statutes has been added to establish a State Investment Board in the Department of Revenue. The Board is to manage and invest State funds with the assistance of the Department of Revenue. From discussions with the Department of Revenue, they will be preparing a fiscal note for the impact to them.

House Committee on State Affairs

RECAP OF
HB 580

Investment of State Funds

Received March 12, 1990
by the Finance Committee

Heard March 20, 1990
Heard March 29, 1990

Passed Out of Committee March 29, 1990
1 Do Pass
4 No Recommendation

TABLE OF CONTENTS

HB 580: Investment of State Funds

HOUSE COMMITTEE REPORT

(7)
Date Referred: March 12, 1990 FURTHER REFERRALS:
FINANCE

Date of Committee Action: __________

The STATE AFFAIRS Committee considered: HB 580

HOUSE BILL NO. 580 INVESTMENT OF STATE FUNDS

"An Act relating to management and investment of certain state funds; and providing for an effective date."

[ ] be replaced with ______________________ [ ] the same title
[ ] a new title

[ ] have attached amendment(s)

[ ] do pass
[ ] do not pass
[X] no recommendation
[ ] individual recommendations
[ ] additional referral to the ______________ Committee

ADOPTS: ______________ letter of intent

ATTACHES NEW FISCAL NOTE(s):

[X] fiscal impact DOR
[ ] zero fiscal note
[X] zero with analysis DOA

APPROVES PREVIOUS:

[ ] fiscal note(s) published: ______________
[ ] zero fiscal notes(s) published: ______________

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

NO REC
No-Rec
NO-REC
NO-REC

Chairman's signature

Item 2

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: HB 580
Publish Date:

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act relating to management and investment of certain State funds
Sponsor: Finance Committee
Requestor: State Affairs

Agency Affected: Administration
BRU: Centralized Administrative Services
Components: Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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
REVENUE	0	0	0	0	0	0

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

ANALYSIS: (Attach a separate page if necessary)

HB 580 does not appear to have any impact on the Division of Finance in its present form. The primary changes appear to be wherever in the Statutes it formerly had "Commissioner of Revenue" it will now have "State Investment Board" and a new section of the statutes has been added to establish a State Investment Board in the Department of Revenue. The board is to manage and invest State funds with the assistance of the Department of Revenue. From discussions with the Department of Revenue, they will be preparing a fiscal note for the impact to them.

Prepared by: for Keith Busch, Director Joe Thomas State Acct.
Phone: 465-2240
Division: Finance
Date:

Approved by Commissioner: Frank S. Baxter
Date: 3/15/90
Agency: Department of Administration

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

4/3X2/031501-0/1&2

Rev: 11/89

Item 2

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: HB 580
Publish Date:

FISCAL NOTE

REQUEST:
Revision Date:
Title: Management and investment of certain State funds
Sponsor: House Finance
Requestor: House State Affairs

Agency Affected: Department of Revenue
BRU: Treasury

Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	120.7	313.9	502.3	733.7	1028.8	1285.3
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	120.7	313.9	502.3	733.7	1028.8	1285.3
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (SBS)	120.7	313.9	502.3	733.7	1028.8	1285.3
TOTAL	120.7	313.9	502.3	733.7	1028.8	1285.3

POSITIONS:

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

ANALYSIS: Fiscal year 1990 effect is zero.

See attached analysis

Prepared By: Milt Barker MB
Division: Treasury

Phone: 465-2350
Date: March 20, 1990

Approved by Commissioner:
Agency: Department of Revenue

Date: 3/20/90

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HB 580
SBS Investment Management Costs

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	($ Millions)						($000)				
Fiscal Year	Beginning Liquid Balance	GIC Maturities	Net Contributions	Average Balance	Investment Earnings	Ending Liquid Balance	Stock Management Fees	Custodian Fees	Audit Fees	Performance Measurement Fees	Total Fees
FY91	0	151.1	50.0	100.5	9.0	210.1	93.5	5.2	10.0	12.0	120.7
FY92	210.1	118.9	55.0	297.1	26.7	410.7	276.3	15.6	10.0	12.0	313.9
FY93	410.7	96.3	60.0	488.8	44.0	610.9	454.6	25.7	10.0	12.0	502.3
FY94	610.9	202.9	65.0	744.8	67.0	945.8	692.6	39.1	10.0	12.0	733.7
FY95	945.8	128.7	70.0	1045.1	94.1	1238.6	971.9	54.9	10.0	12.0	1028.8
FY96	1238.6	60.0	75.0	1306.1	117.5	1491.1	1214.7	68.6	10.0	12.0	1285.3

Notes:
1. Column 6, prior year
2. From Division of Retirement & Benefits
3. Treasury Division estimate based on FY 89 contributions
4. Column 1 + (Column 2 + Column 3)/2
5. 9% x Column 4
6. Column 1 + Column 2 + Column 3 + Column 5
7. Column 4 x .31% per contract x 30% asset allocation to common stocks
8. Column 4 x 5.25¢/$1000 per contract
9. Per contract
10. Treasury Division estimate
11. Columns 7 + 8 + 9 + 10.

Item 3

Comparison of Pending Legislation relating to INVESTMENT OF PUBLIC FUNDS

March 2, 1990
Department of Revenue

PROVISION	Current Law	SB 509	SB 417	SB 197
FUND & MANAGER				
Retirement trust funds	Commissioner of Revenue	Alaska State Trust Company	State Investment Board	Alaska Permanent Fund Corp.
University of Alaska Trust Fund	Commissioner of Revenue	Alaska State Trust Company	State Investment Board	Commissioner of Revenue
Public School Trust Fund	Commissioner of Revenue	Alaska State Trust Company	State Investment Board	Alaska Permanent Fund Corp.
General Fund	Commissioner of Revenue	Alaska State Trust Company	State Investment Board	Commissioner of Revenue
SBS and deferred compensation	Department of Administration	Department of Administration	State Investment Board	Department of Administration
Permanent Fund	Alaska Permanent Fund Corp.	Alaska Permanent Fund Corp.	Alaska Permanent Fund Corp.	Alaska Permanent Fund Corp.
BOARD REPLACES SINGLE PERSON IN CHARGE OF TRUST FUNDS	NO	YES (SBS & deferred compensation at Commissioner of Administration's discretion)	YES	YES except SBS, deferred compensation, & University of Alaska Trust Fund
BOARD REPLACES SINGLE PERSON IN CHARGE OF GENERAL FUND	NO	Commissioner of Revenue's discretion	YES	NO
PROFESSIONAL INVESTORS ON BOARD	NO	YES	NOT REQUIRED	NOT REQUIRED
BENEFICIARY REPRESENTATIVES ON BOARD	NO	YES	YES	NO
SEPARATE CORPORATION FOR TRUST & GENERAL FUND INVESTMENTS	NO	YES (SBS & deferred compensation at Commissioner of Administration's discretion, General Fund at Commissioner of Revenue's discretion)	NO	YES except for SBS, deferred compensation, University of Alaska Trust Fund, & general fund
ACCESS TO FEDERAL RESERVE SERVICES	NO	YES	NO	NO
TRUST & GENERAL FUND INVESTMENTS SUBJECT TO:				
State Procurement Code	Delegations excepted	NO	Delegations excepted	Delegations excepted
Executive Budget Act	YES	NO	YES	YES
Administrative Procedures Act	YES	NO	YES	YES
Public Meetings Law	YES	YES with exceptions	YES	YES
Public Records Law	YES	YES with exceptions	YES	YES
Executive Branch Ethics Act	YES	NO	YES	YES
Personnel Code	NO except SBS & deferred compensation	NO (SBS & deferred compensation at Commissioner of Administration's discretion)	NO	NO except SBS & deferred compensation

Item 4

STATE OF ALASKA

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

MEMORANDUM

DATE: January 3, 1990

TO: Chairman Jalmar Kerttula and Members of the Legislative Budget and Audit Committee

FROM: Randy Welker Randy
Legislative Auditor

RE: Supplemental Benefits System Investment Management

We recently inquired into the Department of Administration, Division of Retirement and Benefits' (DRB) investment strategy for the supplemental benefits systems (SBS) funds. We noted that present investment procedures include investing SBS funds exclusively in guaranteed investment contracts (GICs) with insurance companies. Currently, the SBS investment portfolio consists of GICs with seven carriers amounting to approximately $540 million.

Apparently, this investment strategy was developed during the infancy of the SBS program by DRB and their actuary. No legal conditions or guidance for investing exist in law or regulation. For the most part, GIC's are not backed by federal insurance or other guarantees but are supported by the financial strength and quality of assets of the insurer.

In reviewing the details of the portfolio it was noted that Executive Life Insurance Company holds about 28% ($152 million) of total SBS assets and that two companies hold over 50% of total assets. Of some concern is Executive Life's own investment strategy. They are known in the investment community as a major purchaser of high yield fixed-income instruments also known as "junk" bonds. A November 14, 1989 article in the Wall Street Journal indicated that 44% of Executive Life's cash and invested assets were made up of junk bonds while the average insurance company holds only 4% to 5% of their assets in high yield instruments.

We requested the Treasury Division in the Department of Revenue to provide us with an analysis of current DRB investment practices. This review is attached and expresses some concerns over the lack of a basic investment plan. It also notes that as a result of the recent fall in the junk bond market, that although Executive Life has held high ratings from Moody's, Best's, and Standard and Poor's insurance rating services, Moody's has placed the insurance company's claims-paying rating on review.

According to DRB, they have included in their FY 90 management plan an investigation of their current investment practices. We were told they have contracted with a consultant to review current SBS program investing strategy.

We would recommend that, on a short-term basis, DRB consider the diversification aspects of allowing too few insurance companies to hold large amounts of SBS funds. Also, as pointed out in the Treasury Division's analysis, Executive Life should be monitored in the event their financial condition should deteriorate. Future GIC purchases should involve more scrutiny of the quality of the bidder's assets and financial dealings in the investment markets.

On a long-term basis, we recommend that the Legislature and Executive Branch consider including the SBS and Deferred Compensation programs' investment activities with public employee retirement funds currently under the management of the Department of Revenue. As you recall in our June 19,1989 report to the Legislative Budget and Audit Committee entitled, "A Special Report On The Department Of Revenue, Treasury Division, Public Employees' And Teachers' Retirement Funds," we recommended that legislation should be introduced to establish a "Board of Trustee" structure that would play an active role in management and investment oversight of the retirement funds. Statutory inclusion of the investment of SBS and Deferred Compensation funds could be incorporated into this proposed legislation.

If you have any questions or need additional information, please contact me at 465-3830.

Attachment

MEMORANDUM

STATE OF ALASKA
DEPARTMENT OF REVENUE

TO: Milt Barker
Deputy Commissioner
Treasury Division

DATE: December 18, 1989

TELEPHONE: 465-2350

FROM: Michael Cheung M.C.
State Investment Officer
Treasury Division

RE: GIC Investment For SBS

Per your request, I have reviewed our SBS GIC investment. To summarize, the State should thoroughly examine the overall nature and purposes of the SBS. The State should determine a plan objective that can incorporate both short-term and long-term needs of the plan. An investment strategy should then be set up for accomplishing this objective. As for our current GIC investments, the State should be cautious about the current turmoil in the high yield securities market, as Executive Life's business structure has been severely affected and will continue to be. Finally, any future ITB should require financial information that will enable the State to properly evaluate the financial structure and its soundness of a potential GIC provider.

The State of Alaska is the annuity plan sponsor and the plan is qualified as a defined contribution plan under IRS code 401(a). It is critical for any plan sponsor to understand the nature of its plan and the strategy it takes to accomplish its objectives. A fiduciary has to act like a Prudent Expert in all related matters with primary responsibilities on reducing risk and secondarily on earning a reasonable return. Basically a plan must have:

a. Competitive rate of return;

b. Maintain sufficient liquidity for benefit payments; and

c. Maintain the safeguards and diversification that is prudent in order to reduce risk on portfolio return.

Here are a few major factors that will influence the nature of a plan. A fiduciary should carefully evaluate each of them in order to determine the objectives of the plan and the necessary strategy to accomplish it.

<u>Need for Current Income:</u> Is the plan in a net cash outflow stage? This will be largely influenced by the characteristics of the plan participants.

Inflation Protection: Analyze how the minimum investment income requirement will change over time with inflation.

Capital Risk Tolerance: What are the probable emotional reactions to an adverse outcome? How much volatility can be comfortably accepted?

Liquidity Requirement: Assess the probability of forced sale.

After evaluating the above factors, an investment strategy needs to be set up. Asset allocation decisions must be made. The main reason for having various asset classes is that portfolio return risk can be reduced and in the long run, a sustainable growth can also be achieved.

Currently, the State of Alaska has its SBS monies invested only in GIC instruments. The longest maturity GIC is six years and a weighted average life of 3.3 years for the entire portfolio. However, the nature of the SBS plan is for long-term purposes. The plan is in a positive cash contribution stage as annual contribution will exceed annual annuity payments in 1990. Assuming this trend will continue in the foreseeable future, long-term returns will be more critical to the plan than current income. This means the investment strategy should be one that has a long time horizon with diversified assets in order to provide sustainable growth.

To satisfy both the current annuity payments and long-term growth needs of the plan, the portfolio should be divided into two sections. One portion of it should be set up with high quality fixed income securities. A dedicated cashflow strategy will be employed for this sector, whereby principal payments and interest payments from the bond portfolio will be used to fund annuity payments. A dedicated cashflow strategy is one of the methods a GIC insurer employs to match their assets and liabilities. Another method for asset/liability matching is a bond immunization strategy. An immunization strategy will try to match the duration of annuity payments with the duration of the bond portfolio. This technique permits the locking in of a yield, at the same time the reinvestment rate risk is minimized. Immunization requires three conditions be met:

1. Portfolio Duration = Liability Duration

2. Portfolio Value = Present Value of the Liability Stream

3. Dispersion of portfolio cashflows is equal or slightly greater than the dispersion of the liability stream.

After evaluating the long-term objectives of the fund, another section of the portfolio should be geared for the long-term inflation protected growth and benefits, and asset allocation decisions should be made. Investment strategy should encompass a long investment horizon with various assets that should contribute to a sustainable portfolio return and growth. To have the proper assets mix, risks (variability of return), and expected rates-of-return of different asset types should be evaluated with respect to various economic scenarios. This process will determine the proper asset allocation that is necessary to accomplish the plan objectives. As the economy and the plan characteristics change, plan sponsors should review the plan objectives and investment strategy. Therefore, a fiduciary can take proper actions to ensure the safety, returns, and value of the plan assets.

Within the context of our current GIC portfolio, the State has diversified its investments among various GIC insurers and has set up a ladder maturity schedule. The ability of an insurer to live up to its contractual agreement is dictated by its financial strength and assets quality. There are two levels of comfort an insurer can provide: 1) conservative investment management, which includes lending assets to solid borrowers, diversification of loans by geography and industry, and limiting the amounts invested in any one company, industry, or area; and 2) maintenance of a substantial contingency fund to cover losses of any sour investments. If an insurer does not invest prudently and realized losses occur, all it has to fall back on is its contingency reserve fund.

At present, approximately 25% of our GIC's is provided by Executive Life, a principal subsidiary of First Executive Corporation. First Executive has been known in the investment community as a major player in high yield fixed income securities. At the end of 1988 fixed income securities investments represented over 80% of total assets as compared with the industry's 50% average. Approximately 50% of its assets were invested in speculative-grade bonds and private placements, while industry average is less than 15%.

Executive Life competes in the GIC market by offering higher yields than some of its competitors. Executive Life has this ability because of its higher proportion of below-investment grade securities. This strategy involves some long-term risk. Although the company follows a policy of diversification by issuer and industry, any problems that arise from any bond issuer can affect the whole high yield industry. Presently, we are already witnessing the current shakeout in the high yield fixed income industry. Executive Life has already felt the turmoil in the high yield securities market. At year end 1988, the market value of the bond portfolio was below book value by over $400 million. And a trading out of problem [illegible]ents may result in a reduction of capital when realized losses are [illegible]d in restructuring in portfolio.

Recently, a Wall Street Journal article stated that First Executive (parent company) was involved in restructuring its bond portfolio. By setting up six non-disclosed subsidiaries, First Executive was able to transfer $750 million of its high yield bonds to its subsidiaries. (Any investments worth at least 10% of the net worth has to be publicly disclosed, and 10% of the net worth for First Executive was $140 million. First Executive only invested $128 million in each of the subsidiaries.) In return, First Executive received $770 million notes issued by the subsidiaries. The interests and principal payments on the subsidiaries' notes will be supported by the high yield bonds that First Executive has swapped out. In other words, First Executive was able to unload these high yield securities to its subsidiaries without incurring any realized losses. The new notes issued by the subsidiaries also received a more favorable rating by the insurance regulators. Thus, First Executive was able to reduce an estimated $120 million from its reserve for investment losses. Therefore, liability or insurance claim holders should not view their claims as supported by improved asset quality, because the only benefits realized was First Executive's ability to reduce its reserve account. With the continued turmoil in the high yield securities market. First Executive will be hard pressed to change its business and investment strategy. The State should closely monitor this situation and do any necessary actions to preserve the safety of the SBS assets. Currently, Moody's has placed Executive Life's A1 claims-paying rating on review. The review will focus on the shakeout in the high-yield bond market and its affect on Executive Life.

For any future GIC investment, the State should also request audited financial statements and 10 Q's, quarterly statements and 10K's. These statements are filed with the SEC by publicly traded companies. Insurers should also furnish various types of investment quality ratios: delinquent percent, foreclosed percent, and below investment grade percent. Other ratios on financial strength and capital structure should also be provided. These ratios will indicate the management style and profitability of an insurer. The ITB or contract should also include explicit language that an insurer has to act like a prudent expert in order to prevent the insurer from any actions that will jeopardize the plan assets and its ability to generate the contractual return.

MC/mem

Item 5

A SPECIAL REPORT ON THE
DEPARTMENT OF REVENUE
TREASURY DIVISION
PUBLIC EMPLOYEES' AND TEACHERS'
RETIREMENT FUNDS

June 19, 1989

Audit Control Number

04-4345-89-S

Commissioner, Department of Revenue	Hugh Malone
Deputy Commissioner, Department of Revenue	Milton B. Barker

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

June 19, 1989

Members of the Legislative Budget
and Audit Committee:

In accordance with a Legislative Budget and Audit Committee special request and the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A SPECIAL REPORT ON THE
DEPARTMENT OF REVENUE
TREASURY DIVISION
PUBLIC EMPLOYEES' AND TEACHERS'
RETIREMENT FUNDS

Audit Control Number

04-4345-89-S

The purpose of this audit is to examine the accounting and oversight of the Public Employees' and Teachers' Retirement Funds administered by the Department of Revenue, Treasury Division.

The audit was conducted in accordance with generally accepted governmental performance auditing standards. The audit approach is discussed in the Report Objectives, Scope, and Methodology section of this report. The audit results may be found in the Findings and Recommendations section.

Randy S. Welker

Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit