

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672

7699 SENATE STATE AFFAIRS

253

1 number and identity of individuals ineligible for a permanent fund dividend under  
2 AS 43.23.005(d);

3 (6) adopt regulations that are necessary to implement AS 43.23.005(d);

4 (7) adopt regulations that establish procedures for the parent, guardian, or other  
5 authorized representative of a disabled individual to apply for prior year permanent fund  
6 dividends not received by the disabled individual because no application was submitted on behalf  
7 of the individual.

8 \* Sec. 13. AS 43.23.095(8) is amended to read:

9 (8) "state resident" means an individual who is physically present in the state with  
10 the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the  
11 individual is not physically present in the state, intends to return to the state and remain  
12 permanently in the state under the requirements of AS 01.10.055, and is absent only for any  
13 of the following reasons:

14 (A) vocational, professional, or other specific education for which a  
15 comparable program was not reasonably available in the state;

16 (B) secondary or postsecondary education;

17 (C) military service;

18 (D) medical treatment;

19 (E) service in Congress;

20 (F) other reasons which the commissioner may establish by regulation; or

21 (G) service in the Peace Corps;

22 \* Sec. 14. AS 43.23.005(b) is repealed.

23 \* Sec. 15. Notwithstanding permanent fund dividend application procedures or deadlines, a parent,  
24 guardian, or other authorized representative of a minor who qualified for a dividend for 1992 because  
25 of the amendment to AS 43.23.005(c), made in sec. 5 of this Act, may apply on behalf of the minor for  
26 the dividend by September 1, 1992. The Department of Revenue shall prepare a form for applications  
27 under this section.

28 \* Sec. 16. Sections 5 and 8 of this Act are retroactive to January 1, 1992.

29 \* Sec. 17. Sections 1 - 3, 5, 8, 10, 11, 13, 15, and 16 of this Act take effect immediately under  
30 AS 01.10.070(c).

31 \* Sec. 18. Sections 4, 6, 7, 9, 12, and 14 of this Act take effect January 1, 1993.

# ALASKA STATE LEGISLATURE

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Fax: 586-6246

**Shirley Craft**  
*Alaska State Senator*

## M E M O R A N D U M

To: Senator Pat Rodey  
Chair, Senate State Affairs Committee

From: Senator Shirley Craft *SC*

Date: January 13, 1991

Re: SB 327

I would appreciate your committee's prompt consideration of SB 327, an Act relating to qualification for permanent fund dividends, to dividend applications and to recovery of an improperly paid dividend: and providing for an effective date.

This legislation was necessitated by the current administration's reading of the statutes relating to the permanent fund dividend. The circumstances were such that spouses of military personnel, who had in the past applied and received checks, were denied due to their inability to show intent to remain in Alaska. The administration claimed that due to their marriage to military personnel and the transitory nature of military service, the spouse couldn't prove their intent to stay in Alaska. The administration argued that the applicant would be predisposed to move with the military spouse. When the spouse appealed the decision, they received notice that the department may look into past applications to determine whether or not they met the current administration's standards. If they were found to have erroneously received a permanent fund check, due to the fact that the prior administration had interpreted the eligibility requirements differently, they would be responsible for repayment.

SB 327 serves the purpose of clarifying this issue. While I believe that the permanent fund should benefit Alaskans, the question must be asked: "Which one of us can actually prove beyond a doubt that they will be in Alaska until they die?" It would take a seer to answer this question.

Thank you for your consideration of this legislation.

## BILL SUMMARY

"An Act relating to qualifications for permanent fund dividends, to dividend applications, and to recovery of an improperly paid dividend; and providing for an effective date."

Section 1. Amends AS 43.23.005(c) to provide that children born to Alaskan parents while the parents are out of state on an allowable absence will become eligible in the same fashion as children born to Alaskan parents in state. Now, because of the two year return statute, Alaskan babies born out of state do not become eligible for a PFD until they return to Alaska (i.e. physically present). This could be two years or more.

Section 2. Deletes the exact language of the statement of eligibility and certification of residency. This is a "clean-up" measure that allows the department to prescribe an appropriate statement without having to amend the statute every time criteria change due to regulation or court decisions. However, this new bill does require the department to include a notice of the penalties provided under AS 43.23.035. Recommended by Legislative Legal Services.

Section 3. The department has only two years to notify an individual that they received an improper payment of a PFD. If they fail to notify within two years, they cannot commence

proceedings to recover the payment. This means that if the department denies your PFD for the current year, and you want to appeal, they cannot threaten you with a request for repayment of the last 10 PFDs. IMPORTANT--the two year limitation does not apply to cases of false statement or intentional misrepresentation.

Section 4. Removes "intent" language from definition of "resident". For purposes of the PFD, a "resident" is an individual physically present for the eligibility period or on an allowable absence, who is "not claiming or accepting the benefits of residency in any other state..." If you live in Alaska and do not exercise the rights of citizenship in another state, then for purposes of the PFD program, you are an Alaska resident. The benefits of residency of another state are things like voting in that state's election, state guaranteed mortgages (i.e. CAL VET loan) or in-state tuition for yourself or a minor child etc. Allowable absences are retained as well as the requirement to return to Alaska every two years.

Section 5. Anyone denied a PFD between 1982 and 1992 solely because they were unable to prove "intent to remain" or "intent to return" may apply for the denied dividend by May 1, 1993. The Department of Revenue will prepare a form for such applications.

Section 6. Makes Section 4 (deletion of "intent" language) retroactive to January 1, 1982.

Section 7. Sections 4-6 ("intent" language, effective dates) take effect immediately upon passage and signing by Governor.

Section 8. Sections 1-3 (child born out of state, form, two year limitation) become effective January 1, 1993.

# MEMORANDUM

State of Alaska

Department of Law

TO: Steve Hole  
Administrator

DATE: December 11, 1991

FILE NO.:

TEL. NO.: 465-3600

SUBJECT: Nonresident Spouse Policy

FROM:



Gary I. Amendola  
Vincent L. Usera  
Assistant Attorneys General  
Commercial Section - Juneau

We have reviewed the November 15, 1991 version of the Nonresident Spouse Policy (the policy) adopted by the Permanent Fund Dividend Division. Paragraph 4 of the policy states:

The PFD Division presumes that a non-resident who moves to Alaska with a non-resident spouse intends to accompany their non-resident spouse when that spouse departs Alaska at some future time. An individual who upon moving to Alaska with a non-resident spouse is presumed to not be eligible for a permanent fund dividend until such time as their spouse also takes steps to establish Alaska residency.

In short, the policy says that the spouse of a nonresident is ineligible for a permanent fund dividend no matter how long the spouse remains in Alaska and no matter what or how many steps the spouse may individually take to become an Alaska resident. In our opinion, paragraph 4 of the policy creates a presumption of nonresident status that is not justified and is likely violative of the equal protection provision of the Alaska Constitution. See attached November 14, 1991 memorandum of D. Rebecca Snow. Therefore, the Division may not deny a permanent fund dividend on that basis alone.

On the other hand, the Division may properly investigate further. We think it permissible for the Division to consider the status of the partner of a spouse in determining (on a case-by-case) basis, whether further investigation is appropriate as to whether the spouse is in fact eligible for a permanent fund dividend. Thus, the Division may properly inquire into the other indicators of the spouse's eligibility in a situation where inquiries by the Division reveal that the spouse's partner

Steve Hole  
Administrator

December 11, 1991  
Page 2

continues to claim residency elsewhere. 1/ After investigation, and based on the facts, not a presumption, the Division can approve or deny the application for a permanent fund dividend.

If you have any questions, please let me know.

GIA:VLU/jp/prm

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1/ In short, the facts raise an inference of nonresidency that may be properly investigated further. The facts do not however, properly raise a presumption of nonresidency as a matter of law. In our opinion, further investigation is okay; denial without more is not. See, for example, *State v. Jackson*, 774 P.2d 1211, 1214 (Wash 1989) (Presumptions are one thing; inferences another. Presumptions are assumptions of fact which the law requires to be made from another fact or group of facts; inferences are logical deductions or conclusions from an established fact. Presumptions deal with legal processes, whereas inferences deal with mental processes.)

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
NONRESIDENT SPOUSE POLICY  
 As of January 22, 1991

In order to be eligible for a permanent fund dividend, AS 43.23.095(B) requires an individual to have "the intent to remain permanently in the state."

An Alaska resident who is physically present in Alaska and marries a nonresident has the intent to remain permanently in the state until the Alaska resident takes steps or actions to depart the state.

The eligibility of an Alaska resident who marries a nonresident while absent from Alaska is not necessarily changed by the fact they married a nonresident, as long as the Alaska resident is absent for an allowable reason.

There shall be no presumption that an applicant is not an Alaska resident just because the applicant's spouse has not declared Alaska residency. No applicant may be denied a dividend solely because the spouse is a nonresident. In such cases, before making a determination, the division may conduct further reasonable investigation into the applicant's intent to remain an Alaskan resident. The PFD division will consider all relevant circumstances when evaluating whether such an individual claiming Alaska residency and living in Alaska with a nonresident spouse has demonstrated an intent to remain permanently in Alaska. The Division will consider whether or not such an individual has:

1. taken steps to establish Alaska residency and sever their previous residency;
2. ties to another state which indicate continued residency in the other state; and
3. taken other action that reasonably demonstrates an intent to remain in Alaska indefinitely.

This policy supercedes all previously issued policies on this issue and is effective immediately.

\*\*\*\*\*  
 FAX TRANSMITTAL MEMO  
 TO: Tom Bruce  
 DEPT Sec Care's Office FAX #: 586-6246  
 FROM: Tom Williams PHONE: 2223  
 CO: DOR PFD-D FAX #: 465-2006  
 Post-it brand fax transmittal memo 7971

NO. OF PAGES
1

Thomas C. Williams  
 Thomas C. Williams, Director

1-22-92  
 Date

Darrel J. Rowinkel  
 Darrel J. Rowinkel  
 Commissioner

1/22/92  
 Date

**DEPARTMENT OF REVENUE**

*PERMANENT FUND DIVIDEND DIVISION*

December 12, 1991

The Honorable Shirley Craft  
Alaska State Senate  
119 North Cushman  
Fairbanks, AK 99701

Dear Senator Craft:

This is in response to your November 25, 1991 letter regarding the Division's nonresident spouse policy.

The following are my responses to your specifically enumerated questions.

1. We sent inquiries to 8,697 applicants who stated they had a spouse who had apparently not applied for a 1991 dividend.
2. As of December 10th, we had either not received or not yet processed responses from 1,779 applicants. Of those, we estimate that 70 have been received and are currently being processed. Processing will result in either an application being cleared for payment or placed into review.
3. Of those already processed 965 or 16% have been denied. However, recognizing that the Division incorrectly denied some applicants who were residents eligible for a PFD before they married a non-resident, the Division has taken steps to identify those individuals and overturn the original erroneous denials. Based on our initial review, relatively few of the original denials involved such individuals.

In addition, the Division is re-reviewing all other denials to determine if the applicant submitted sufficient evidence to support the assertion that they are a resident even though they have a non-resident spouse. The Division also intends to allow applicants who did not originally submit such evidence an opportunity to do so as part of the re-review/appeal process.

4. Of the 965 denied 346 or 36% have already appealed the denial requesting an informal conference. However, as indicated in my response to question #3, the Division will be re-reviewing all of those denials whether or not the applicant has already appealed.
5. As of December 10, 1991 the Division had denied 29,520 1990 PFD applications. Of those, we can only statistically identify 14 who were specifically denied for a lack of intent to remain permanently in Alaska. However, we only recently added the ability to identify denials for this particular reason. Consequently, we cannot statistically identify all such denials. None of these 14 we can identify have been successfully appealed. However, we do know of specific prior year cases which were successfully appealed.

POLICY - PFD DIVISION

Senator Shirley Craft  
December 12, 1991  
Page 2

6. As of December 10, 1991, 594 1990 applicants have been assessed for erroneously paid dividends. At least 2 of these assessments related to lack of an intent to remain in Alaska. Of those 594, 43 have been completely repaid.

While we may advise applicants who call and ask us about their status that they have been denied, all applicants who are denied a dividend are mailed a denial notice along with appeal forms. Since appeals must be in writing and should address the reason for denial, as a practical matter applicants need to wait until they actually receive a denial before they appeal.

With respect to your statement that some individuals are asserting that the Department is effectively intimidating people from appealing a denial of their dividend, neither I nor the Department sanction any such action. In fact, it is our policy to neither encourage or discourage people from appealing any denial. It is our policy to simply advise applicants of their right to appeal any denial.


Given the seriousness of the assertion, I would very much appreciate it if you could provide me the name of any PFD Division employees who have made such statements. In addition, I have recently reiterated to my staff that such intimidating type statements are wholly inappropriate.

I concur the dividend is a very important benefit to which qualified state residents are entitled. The Division's role is two fold. First, we are to ensure all qualified residents receive a dividend as easily and expeditiously as possible. In addition, we are to ensure that those who are not eligible are not inappropriately paid. Our objective is to reasonably balance these two objectives.

For your reference, I have enclosed a copy of our revised December 12, 1991 Nonresident Spouse Policy, as well as a December 10, 1991 status summary of our spouse inquiry project.

Thank you for your concern on this issue.

Sincerely,



Thomas C. Williams, Director  
Permanent Fund Dividend Division

TCW:bro  
91-132

Enclosures (2)

cc: Darrel Rexwinkel  
Deputy Commissioner  
Department of Revenue

8302G

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
STATUS OF SPOUSE INQUIRY PROJECT

As of December 10, 1991

Inquiries Sent on 09/30/91 and 10/01/91	<u>8,697</u>
Unresolved Inquiries	
No response received	1,709
Response received, not yet processed	<u>70</u>
Total Unresolved Inquiries (A)	<u>1,779</u>
Processed, Cleared in Applicant's Favor	<u>4,840</u>
Selected for Review	
Missing other information	65
Denied for other reason	45
Postpayment review	2
Prepayment review	<u>1,001</u>
Total Selected for Review	<u>1,113</u>
Denied	
Only based on non-residency of spouse	944
Based on additional reason	<u>21</u>
Total Denied (B)	<u>965</u>

Notes

- A. On 11/19/91 2,243 applicants had either not responded or the Division had not yet processed their response. The number reported as received but not yet processed is an estimate.
- B. Recognizing that the Division incorrectly denied some applicants who were residents eligible for a PFD before they married a non-resident, the Division has taken steps to identify those individuals and overturn the original erroneous denials. Based on our initial review, relatively few of the original denials involved such individuals.

In addition, the Division is re-reviewing all other denials to determine if the applicant submitted sufficient evidence to support the assertion that they are a resident even though they have a non-resident spouse. The Division also intends to allow applicants who did not originally submit such evidence an opportunity to do so as part of the re-review/appeal process.

## ALASKA STATE LEGISLATURE

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Juneau, Alaska 99801-11  
(907) 465-36  
Fax: 586-62

**Shirley Craft**  
*Alaska State Senator*

November 25, 1991

Tom Williams, Director  
Permanent Fund Dividend Division  
Department of Revenue  
P.O. Box S-0462  
Juneau, Alaska 99811-0462

Dear Director Williams:

Thank you for the information you recently provided concerning the number of PFD applicants denied so far this year on the basis of the nonresidence of their spouse. I would like to have some clarification on this point and would like to request further statistical data.

1. You note that 787 applicants (727 female) have been denied so far this year. How many applications were "flagged" on the basis of the spouse not having applied?
2. How many are yet to be processed, based on replies to the spouse information questionnaire? When will this initial processing be finished?
3. Of those processed, what is the percentage denied?
4. Of those denied, how many have appealed the decision or requested an informal conference?
5. For FY 91, how many PFDs were denied? How many were denied based on "intent to remain" or "intent to return"? How many of those denied for reasons of "intent" were successfully appealed? How many are still being processed?

Williams  
11/25/91  
page 2.

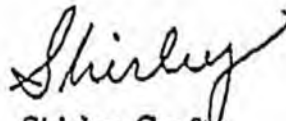
6. For FY 91, of 1990 PFD denials, how many led to a request for repayment of previous year's PFDs? How many of those have repaid past PFDs?

Also, some of my constituents have told me that they have only received notification of denial by telephone. Is it a common practice to notify applicants of denial by phone rather than mail? When do those notified by phone get an opportunity to request an informal conference? Must they wait until the denial is confirmed in writing? If so, when can they expect written notification?

Finally, individuals have related that when they indicated a desire to appeal the denial of their PFD, department personnel have told them that it could lead to a request for repayment of past PFDs with interest. As you may imagine, the implication of such a statement is that if one questions the department's decision, the department has the power to punish that person, and this is frightening. Is this type of intimidation sanctioned by the department?

It seems to me that we need to remember that the Permanent Fund Dividend is a benefit to which state residents are entitled, and that the Department of Revenue has the honor of serving Alaskans in delivery of this benefit. I hope that your division sees this function in that light and assists the public accordingly.

Sincerely,



Shirley Craft  
Alaska State Senator

SC:dga

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
NONRESIDENT SPOUSE POLICY  
As of December 16, 1991

In order to be eligible for a permanent fund dividend, AS 43.23.095(8) requires an individual to have "the intent to remain permanently in the state."


An Alaska resident who is physically present in Alaska and marries a nonresident has the intent to remain permanently in the state until the Alaska resident takes steps or actions to depart the state.

The eligibility of an Alaska resident who marries a nonresident while absent from Alaska is not necessarily changed by the fact they married a nonresident, as long as the Alaska resident is absent for an allowable reason.

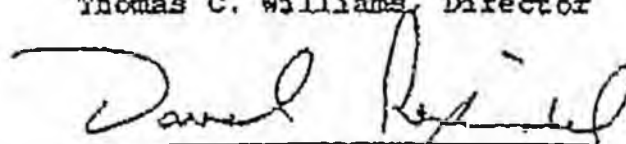
A nonresident who moves to Alaska with a nonresident spouse, more likely than not, intends to accompany their nonresident spouse when that spouse departs Alaska. The PFD Division will consider all relevant circumstances when evaluating whether such an individual claiming Alaska residency and living in Alaska with their nonresident spouse has demonstrated an intent to remain permanently in Alaska despite the nonresidency of their spouse. The Division will consider whether or not such an individual has:

1. taken steps to establish Alaska residency and sever their previous residency;
2. ties to another state, which indicate continued residency in the other state; and
3. taken other action that reasonably demonstrates an intent to remain in Alaska indefinitely.

This policy supercedes all previously issued policies on this issue and is effective immediately.

  
Thomas C. Williams, Director

12-16-91  
Date

  
Darrel J. Rexwinkel  
Acting Commissioner

12/16/91  
Date

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
NONRESIDENT SPOUSE POLICY  
As of November 15, 1991

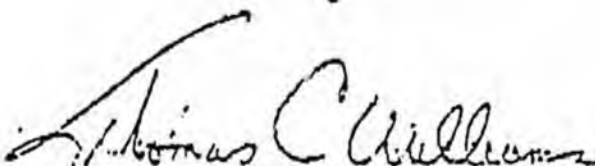
In order to be eligible for a permanent fund dividend, AS 43.23.095(8) requires an individual to have "the intent to remain permanently in the state."

The PFD Division presumes that an Alaska resident who is physically present in Alaska and marries a nonresident has the intent to remain permanently in the state until the Alaska resident takes steps or actions to depart the state with their nonresident spouse.

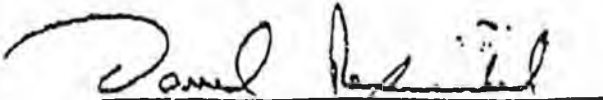
The eligibility of an Alaska resident who marries a non-resident while absent from Alaska is not necessarily changed by the fact they married a non-resident, as long as the Alaska resident is absent for an allowable reason.

The PFD Division presumes that a non-resident who moves to Alaska with a non-resident spouse intends to accompany their non-resident spouse when that spouse departs Alaska at some future time. An individual who upon moving to Alaska with a non-resident spouse takes steps to establish Alaska residency is presumed to not be eligible for a permanent fund dividend until such time as their spouse also takes steps to establish Alaska residency.

This policy supercedes all previously issued policies on this issue and is effective immediately.

  
Thomas C. Williams, Director

11-15-91  
Date

  
Darrel J. Rexwinkel  
Acting Commissioner

11/15/91  
Date

ALASKA DEPARTMENT OF REVENUE  
 PERMANENT FUND DIVIDEND DIVISION  
NONRESIDENT SPOUSE POLICY  
 As of December 12, 1991

In order to be eligible for a permanent fund dividend, AS 43.23.095(8) requires an individual to have "the intent to remain permanently in the state."

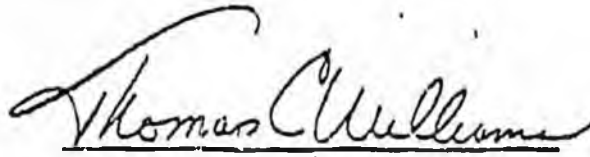
An Alaska resident who is physically present in Alaska and marries a nonresident has the intent to remain permanently in the state until the Alaska resident takes steps or actions to depart the state.

The eligibility of an Alaska resident who marries a nonresident while absent from Alaska is not necessarily changed by the fact they married a nonresident, as long as the Alaska resident is absent for an allowable reason.

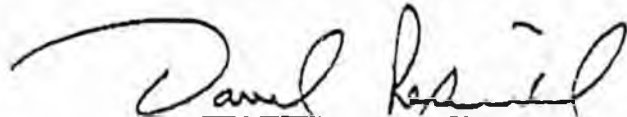
A nonresident who moves to Alaska with a nonresident spouse, more likely than not, intends to accompany their nonresident spouse when that spouse departs Alaska. The PFD Division will consider all relevant circumstances when evaluating whether such an individual claiming Alaska residency and living in Alaska with their nonresident spouse has demonstrated an intent to remain permanently in Alaska despite the nonresidency of their spouse. The Division will consider whether or not such an individual has:

1. taken steps to establish Alaska residency and sever their previous residency;
2. ties to another state which indicate "continued residency in the other state;
- ✓ 3. purchased a home in Alaska;
- ✓ 4. entered into a long-term Alaska residential lease that extends significantly beyond the nonresident spouse's scheduled departure;
- ✓ 5. remained in Alaska when their nonresident spouse moved out of Alaska; or
6. taken other action that reasonably demonstrates an intent to remain in Alaska indefinitely/even if their nonresident spouse were to depart Alaska.

This policy supercedes all previously issued policies on this issue and is effective immediately.

  
 Thomas C. Williams, Director

12-12-91  
 Date

  
 Darrel J. Rexwinkel  
 Acting Commissioner

12/12/91  
 Date

S B

3 2 9

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: An Act establishing the Alaska State Pension  
Investment Board

Department Affected: Administration  
BRU: Retirement and Benefits

Sponsor: Pouchot  
Requestor: Senate State Affairs

Component: Retirement and Benefits  
COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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
FUND SOURCE:						

FUNDING: (Thousands of dollars)

GENERAL FUND	<2736.1>	<2736.1>	<2736.1>	<2736.1>	<2736.1>	<2736.1>
FEDERAL FUNDS	0	0	0	0	0	0
OTHER						
FUND SOURCE	2736.1	2736.1	2736.1	2736.1	2736.1	2736.1
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year impact: none

ANALYSIS: (attach a separate page if necessary.) This analysis is based on the assumption that the Department of Revenue will provide staff assistance to the board to accomplish required administrative tasks. Section 13 includes the receipts of the Supplemental Benefits System and the Deferred Compensation Program as exceptions to the list of general fund program receipts. These receipts are considered to be held in trust and not available for general appropriation and results in the transfer of funding from General Fund to Other Fund Source (Benefit Systems Receipts).

Prepared By: Gary Bader  
Division: Retirement and Benefits

Phone: 465-4470  
Date: 1/17/92

Approved by Commissioner: Nancy Bear User  
Agency: Department of Administration

Date: 1/21/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).  
Rev 10/90

## AMENDMENT #1

TO: SB 329, An Act establishing the Alaska State Pension  
Investment Board

Offered by: Senator Pourchot

Page 9 Section 8:

Delete Section 8.

Page 10 Section 9:

Delete Section 9

RATIONALE: SB 70, Municipal Taxation of Certain Property, passed the legislature in 1991 and became law upon the Governor's signature, Chapter 85 SLA 91. CRA has recommended that the language in Section 8, AS 29.45.030 (a) (1) (B) clearly includes the Alaska State Pension Board and the funds it manages. Therefore, Subsection (D) is unnecessary and the reference to it in Section 9 becomes unnecessary. The remaining portions of Section 8 and 9 are existing statute, and therefore should be deleted.

Proposed CS for SB 329

Explanation of Amendment:

AS 29.45.030(a)(1)(B) provides for certain real property which has been acquired by a state entity through foreclosure to become taxable by municipalities. Section 8 and 9 of Senate Bill 329 propose to add language which would provide for the same arrangement on property of the Alaska State Pension Investment Board. All parties agree that this proposed language is redundant to the existing language noted above (See existing language on page 9 of the bill, beginning at line 6.) Thus, it is suggested that Sections 8 and 9 can be removed without disturbing the effect of this proposal.

Section 5 of the bill would accomplish a "housekeeping" measure which was inadvertently overlooked when AS 29.45.030(a)(1)(B) was adopted in 1991. If not for Section 5, it could be argued that member contributions to the Alaska State Pension Investment Board are exempt for taxation, thereby rendering AS 29.45.030(a)(1)(B) ineffective. Although we do not believe such an argument would be successful we believe the language in Section 5 is beneficial for the purpose of avoiding future potential litigation on this subject.

Submitted by Department of Community and Regional Affairs.  
1/17/92

## AMENDMENT #2

TO: SB 329, An Act establishing the Alaska State Pension Investment Board.

Offered by: Senator Pourchot

Page 6, line 20:

Delete (ASSETS AND)

### RATIONALE;

Technical amendment to clarify that the Board does not have assets, it manages the assets for the funds listed in SB 329.

*Left Margin  
Explanatory Notes*

**CS CHANGES  
HIGHLIGHTED**

**CS FOR SENATE BILL NO. 329 (STATE AFFAIRS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE STATE AFFAIRS COMMITTEE**

Offered:  
Referred:

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

*Funds to be Managed:*

*PERS  
TRS  
Judicial  
Military  
SBS  
Deferred Comp.*

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing the Alaska State Pension Investment Board; relating to management  
2 and investment of state pension funds, receipts of the supplemental employee benefits  
3 program, receipts of the deferred compensation program, and other state funds; and  
4 providing for an effective date."

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

6 \* Section 1. AS 37.10 is amended by adding new sections to read:

*Public Funds Statute*

7 **ARTICLE 5. ALASKA STATE PENSION INVESTMENT BOARD.**

*8 Establishes  
Board in the Public  
9 Funds statutes*

10 Sec. 37.10.210. ALASKA STATE PENSION INVESTMENT BOARD. (a) There is  
11 established the Alaska State Pension Investment Board in the Department of Revenue. The  
12 purpose of the board is to provide prudent and productive management and investment of state  
13 pension funds and of other state funds upon agreement with the commissioner of the department  
14 or the fiduciary responsible for the fund.

*10 Purpose*

*13 8 Trustees  
14 (4 elected  
4 appointed)*

(b) The board consists of eight trustees. Two of the trustees shall be elected by the members of the public employees' retirement system from the membership of the system.

CS Proposed (Pourchot) changes highlighted, amend.'s included

Board Composition:

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1 ② PERS  
I must  
be SBS

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3 ② TRS

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6 ③ Gov. appoint

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8 ① Comm.  
9 of Revenue  
10 qualifications

11 4 year  
12 staggered terms

13  
14 Removal of  
15 appointees by  
Governor

16  
17  
18 Removal and  
19 selection  
20 PERS/TRS  
Board

21 Vacancy

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23  
24  
25 Chair  
26 Quorum

27  
28  
29 No designees

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31 Training  
Policy

Nominations may be made by the Public Employees' Retirement Board or by petition signed by at least 10 persons eligible to vote in the election. One of the trustees elected from the membership of the public employees' retirement system must be a participant in the supplemental employee benefits program established under AS 39.30.150 - 39.30.180. Two of the trustees shall be elected by the members of the teachers' retirement system from the membership of the system. Nominations may be made by the Teachers' Retirement Board or by petition signed by at least 10 persons eligible to vote in the election. The governor shall appoint three trustees. At least one of the appointed trustees must represent employers, other than the state, who participate in one of the retirement systems. The appointed trustees must have business and investment experience. The commissioner of revenue serves as a trustee.

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

(d) The governor may, by written notice to the trustee, remove an appointed trustee for cause. The Public Employees' Retirement Board may, by written notice to the trustee, remove a member elected from the membership of that retirement system for cause. The Teachers' Retirement Board may, by written notice to the trustee, remove a member elected from the membership of that retirement system for cause. After a trustee receives written notice of removal, the trustee may not participate in board business and may not be counted for purposes of establishing a quorum.

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

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

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

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

(i) The board shall adopt a policy concerning investment education for trustees.

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

Powers and Duties - Board shall ... Subsection (a) 1-9

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

3 *set investment* (2) establish investment policies for the funds for which it is responsible after  
4 *policies* reviewing recommendations from the investment advisory council and the Department of  
5 Revenue;

6 *Reports to LB; A* (3) submit long-range and quarterly investment reports to the Legislative Budget  
7 and Audit Committee;

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

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

16 *Independent Audit* (6) engage independent certified public accountants to perform an annual audit  
17 of each of the funds for which the board is responsible and to report to the board with the results  
18 of the audit;

19 *Review "expected rate of return" every 2 years and report to boards* (7) review the actuarial earnings assumption for each fund for which the board  
20 is responsible every two years and report its findings and recommendations to the appropriate  
21 board or agency;

22 *After reviewing council and staff rec's select and retain managers and custodians* (8) after reviewing the recommendations from the Department of Revenue and  
23 the advisory council, select and retain the external investment managers and custodians for the  
24 funds managed by the board;

25 *Develop and present budget to DOR, OMB, Legis* (9) develop an annual operating budget plan and present it to the Department of  
26 Revenue, the office of management and budget, and the legislature.

27 *Subsection (b) 1-Save May employ outside advisors* (b) The board may  
28 (1) employ outside investment advisors to review investment policies and make  
29 recommendations to the board;

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

31 *contract for services* (3) contract for services necessary to carry out its powers and duties;

1 (4) enter into an agreement with the commissioner of the department or the  
 2 fiduciary responsible for another state fund to assume fiduciary or management responsibilities  
 3 for investing the other state fund;

4 (5) do all acts necessary to carry out the powers expressly granted or necessarily  
 5 implied in this chapter.

6 (c) The board shall meet annually, either jointly or separately, with the Public  
 7 Employees' Retirement Board, the Teachers' Retirement Board, and the Department of  
 8 Administration to review benefit administration of each of the retirement systems and of the  
 9 employee benefits program established under AS 39.30.150 - 39.30.180 and the deferred  
 10 compensation program under AS 39.45. The Department of Administration and each retirement  
 11 board shall report to the investment board on benefit administration and other issues for that  
 12 retirement system or program that may affect the investment and management of the fund.

13 (d) The chair of the board shall appoint a trustee to present the board's position to  
 14 legislative committees when the committees are considering the board's operating budget. The  
 15 board is otherwise subject to AS 37.07.

16 Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions  
 17 of AS 39.50.

18 (b) If a trustee acquires, owns, or controls an interest, direct or indirect, in an entity or  
 19 project in which assets under the control of the board are invested, the trustee shall immediately  
 20 disclose the interest to the board. The disclosure is a matter of public record and shall be  
 21 included in the minutes of the board meeting next following the disclosure. The board shall  
 22 adopt regulations to restrict trustees from having a substantial interest in an entity or project in  
 23 which assets under the control of the board are invested.

24 A.P.A. Sec. 37.10.240. REGULATIONS AND OPEN MEETINGS. (a) The board may adopt  
 25 regulations to implement AS 37.10.210 - 37.10.390. Regulations adopted by the board are not  
 26 subject to the Administrative Procedure Act (AS 44.62). The board shall adopt regulations  
 27 required by AS 36.30.015(f) relating to procurement. The board shall comply with the  
 28 requirements of AS 44.62.310 - 44.62.312.

29 (b) Notwithstanding (a) of this section, a regulation adopted under AS 37.10.210 -  
 30 37.10.390 shall be published in the Alaska Administrative Register and Alaska Administrative  
 31 Code for informational purposes. A regulation adopted under this section shall conform to the

*other state funds*

*necessary acts*

*Directed coordination with Dept. of Admin and appropriate boards to review benefit administration.*

*Board rep. in budget process*

*Conflict of Interest provisions for trustees*

*Disclosure Regs.*

*Conflict of Interest reqs.*

*Exempt from must comply with open meetings*

*Regs must conform and must be published.*

SSB 329(STA)

regulations can't...

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1 style and format requirements of the drafting manual for administrative regulations that is  
2 published under AS 44.62.050.

3 (c) At least 30 days before the adoption, amendment, or repeal of a regulation under this  
4 chapter, the board shall provide notice of the action that is being considered. The notice must  
5 include publication in one or more newspapers of general circulation in each judicial district of  
6 the state.

7 (d) A regulation adopted under this chapter takes effect 30 days after adoption by the  
8 board unless a later effective date is stated in the regulation.

9 (e) Notwithstanding the other provisions of this section, a regulation may be adopted,  
10 amended, or repealed, effective immediately, as an emergency regulation. For an emergency  
11 regulation to be effective the board must find that the immediate adoption, amendment, or repeal  
12 of the regulation is necessary. The board shall, within 10 days after adoption of an emergency  
13 regulation, give notice of the adoption under (c) of this section. An emergency regulation  
14 adopted under this subsection may not remain in effect past the date of the next regular meeting  
15 of the board unless the board complies with the procedures set out in this section and adopts the  
16 regulation as a permanent regulation.

17 (f) In this section, "regulation" has the meaning given in AS 44.62.640(a).

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

26 Sec. 37.10.260. STAFF. (a) The Department of Revenue shall provide staff for the  
27 board.

28 (b) The board may designate a trustee or an officer or employee of the Department of  
29 Revenue to be responsible for signing on behalf of the board a deed, contract, or other document  
30 that must be executed by or on behalf of the board.

31 Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint

Investment  
Advisory  
Council  
min=3  
max=5

Standard  
Regulation  
Definition

30 day effective  
date

30 day  
notice

emergency  
regulations

\$150  
honorarium

Per Diem/  
Travel

DoR to provide  
staff to the  
board.

Signatory

1 an investment advisory council composed of at least three and not more than five members.  
 2 Members of the council shall possess experience and expertise in financial investments and  
 3 management of investment portfolios for public, corporate, or union pension benefit funds,  
 4 foundations, or endowments.

*Council  
Qualifications*

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

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

10 (d) The council shall  
 11 (1) review the investments made by the board;  
 12 (2) make recommendations to the board concerning the board's investment  
 13 policies, investment strategy, and investment procedures;  
 14 (3) advise the board on selection of performance consultants and on the form and  
 15 content of annual reports;  
 16 (4) provide other advice as requested by the board.

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

19 Sec. 37.10.280. INSURANCE. The board shall ensure that trustee assets and its own  
 20 ~~AND ASSETS~~ services are protected. The board may purchase insurance or provide for self-insurance retention  
 21 in amounts recommended by the commissioner of revenue and approved by the board to cover  
 22 the acts, including fiduciary acts, errors, and omissions of its board members and agents. Insur-  
 23 ance must protect the board and the state from liability to others and from loss of trustee assets  
 24 due to the acts or omissions of the trustees.

25 Sec. 37.10.290. EXEMPTION FROM TAXATION. Except as provided in  
 26 AS 29.45.030(a) for property acquired through foreclosure or deed in lieu of foreclosure, the  
 27 board and all properties at any time owned by it, managed by it, or held by it in trust, and the  
 28 income from those activities, are exempt from all taxes and assessments in the state. All security  
 29 instruments issued by the board and income from them are exempt from all taxes and  
 30 assessments in the state, including transfer taxes.

31 Sec. 37.10.300. LIMITATIONS. The board may not engage in commercial banking

*Previous exemption from taxation except for foreclosed properties.*

*Board limitations*

1 activity or private trust activity. The board may not act as a depository or trustee for a private  
 2 person, association, or corporation. The board may not act as a lender to a private person,  
 3 association, or corporation of money from any source except state funds under management by  
 4 the board.

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Sec. 37.10.310. LIABILITY. A liability incurred by the board shall be satisfied exclusively from the trust assets or trust revenue, and a creditor or other person may not have a right of action against the state because of a debt, obligation, or liability of the board.

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

(1) "board" means the board of trustees of the Alaska State Pension Investment Board;

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

\* Sec. 2. AS 14.25.035(d) is amended to read:

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

\* Sec. 3. AS 14.25.035 is amended by adding a new subsection to read:

(j) The board shall adopt regulations for the election of trustees to the Alaska State Pension Investment Board and for removal from the investment board of trustees elected from the system.

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

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

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

Limits the states responsibility for Board liability NO General Fund.  
 Definitions  
 TRS  
 replaces Commissioner with Board for reporting requirements  
 TRS Board to adopt reg's for election of trustees  
 TRS  
 Replaces Comm. with Board as fiduciary existing TRS statutes.

- 1 (2) determine the appropriate investment objectives for the fund;
- 2 (3) establish investment policies aimed at achieving the objectives; and
- 3 (4) act only in regard to the best financial interests of the system's plan and
- 4 beneficiaries.

5 (b) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
 6 may invest the fund on the basis of probable total rate of return without regard to the distinction  
 7 between principal and income or to the generation of income.

8 (c) In carrying out investment duties under this chapter, the Alaska State Pension  
 9 Investment Board [COMMISSIONER OF REVENUE] has the same powers and duties in regard  
 10 to the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard  
 11 of prudence that the board [COMMISSIONER] must obey under AS 37.10.071(c) shall be in  
 12 regard to the management of large trust investments rather than large investments.

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

*TRs  
 Clarifying  
 that Alaska  
 municipal taxation  
 on foreclosed  
 property  
 to SB 78, which  
 passed  
 2018  
 21 year.*

14 (a) Except as provided in AS 14.45.030(a)(1), member [MEMBER] contributions and  
 15 other amounts held in the system on behalf of a member or other person who is or may become  
 16 eligible for benefits under the system are exempt from Alaska state and municipal taxes and are  
 17 not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge  
 18 of any kind, either voluntary or involuntary, before they are received by the person entitled to  
 19 the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer,  
 20 assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the  
 21 system is void. However, a member's right to receive benefits may be assigned under a qualified  
 22 domestic relations order.

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

*Judicial  
 Retirement  
 System*

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

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

*Military  
 Retirement  
 System*

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

Previous version - SB 329 contained two unnecessary sections concerning municipal taxation of foreclosed property. CS reflects removal of those sections.

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→ Procurement Regs.

1 \* Sec. 8. AS 36.30.015(f) is amended to read:

2 (f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding  
3 AS 18.56.088, and the board of directors of the Alaska State Housing Authority shall adopt  
4 regulations under the Administrative Procedure Act (AS 44.62) and the board of trustees of the  
5 Alaska State Pension Investment Board shall adopt regulations under AS 37.10.240 to  
6 govern the procurement of supplies, services, professional services, and construction for the  
7 respective public corporations and board. The regulations must

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

10 (2) include procurement methods to meet emergency and extraordinary  
11 circumstances.

12 \* Sec. 9. AS 36.30.850(b)(15) is amended to read:

13 Procurement Regs changed.  
14 Code reflects changes to this bill (15) a contract that is a delegation, in whole or in part, of investment powers held  
15 AS 18.56.095, [AS 22.25.048, AS 26.05.228,] AS 37.10.070, 37.10.071, or AS 37.14 [, OR  
16 AS 39.35.080];

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

18 (1) "agency"

19 Procurement Code Exemption (A) means a department, institution, board, commission, division,  
20 authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of  
21 the executive branch of state government;

22 (B) does not include

- 23 (i) the University of Alaska;
- 24 (ii) the Alaska State Housing Authority;
- 25 (iii) the Alaska Railroad Corporation;
- 26 (iv) the Alaska Housing Finance Corporation;
- 27 (v) a regional Native housing authority created under AS 18.55.996
- 28 [,] or a regional electrical authority created under AS 18.57.020;
- 29 (vi) the Alaska Aerospace Development Corporation;
- 30 (vii) the Alaska State Pension Investment Board;

31 \* Sec. 11. AS 37.05.146 is amended to read:

Definition of Program Receipts changed to include SBS & Def. Comp. See subsections O and P.

Program Receipts  
Can't

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

5 (1) federal receipts;  
6 (2) University of Alaska receipts (AS 14.40.491);  
7 (3) individual, foundation, or corporation gifts, grants, or bequests that by their  
8 terms are restricted to a specific purpose;

9 (4) receipts of the following funds:  
10 (A) highway working capital fund (AS 44.68.210);  
11 (B) correctional industries fund (AS 33.32.020);  
12 (C) loan funds;  
13 (D) international airport revenue fund (AS 37.15.430);  
14 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),  
15 the Alaska Housing Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation  
16 (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), the Alaska  
17 Aerospace Development Corporation (AS 14.40.821), or the Alaska Industrial  
18 Development and Export Authority (AS 44.88.020);

19 (F) fish and game fund (AS 16.05.100);  
20 (G) school fund (AS 43.50.140);  
21 (H) training and building fund (AS 23.20.130);  
22 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and  
23 former AS 39.37);

24 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);  
25 (K) public school fund (AS 37.14.110);  
26 (L) second injury fund (AS 23.30.040);  
27 (M) fishermen's fund (AS 23.35.060);  
28 (N) FICA administration fund (AS 39.30.050);

29 (O) receipts of the employee benefits program established under AS 39.30.150 -  
30 39.30.180;

31 (P) receipts of the deferred compensation program established under

1 AS 39.45.

2 \* Sec. 12. AS 37.10.071 is amended to read:

Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making investments

under this section, the fiduciary of a state fund [COMMISSIONER OF REVENUE] shall

(1) act as official custodian of cash and investments by securing adequate and safe

custodial facilities for them;

(2) receive all items of cash and investments;

(3) collect and deposit the principal of and income from owned or acquired

investments;

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

(5) receive and spend appropriations to cover the cost of the exercise of duties

under this section;

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

(7) perform all acts, not prohibited by this section, whether or not expressly

authorized, that the fiduciary [COMMISSIONER] considers necessary or proper in administering

the assets;

(8) maintain accounting records in accordance with generally accepted

[INVESTMENT] accounting principles;

(9) engage an independent certified public accountant to conduct an annual audit

of the financial condition and investment transactions;

(10) enter into and enforce contracts or agreements considered necessary,

convenient, or desirable for the investment purposes of this section; and

(11) when choosing to acquire or dispose of investments, secure competitive

national or international market rates or prices, or the equivalence of those rates or prices in the

judgment of the fiduciary [COMMISSIONER].

(b) Under this section, the fiduciary of a state fund or the fiduciary's

[COMMISSIONER OR THE COMMISSIONER'S] designee may

(1) delegate investment, custodial, or depository authority on a discretionary or

non discretionary basis to officers or employees of the state or to independent firms, banks,

financial institutions, or trust companies [,] by designation through appointments, contracts, or

letters of [OR] authority;

Public Funds  
Replaces the  
Commissioner of  
Revenue with the  
language "fiduciary  
of state fund"  
in current statutes  
(both subsections  
a, b)

G.A.A.P.

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

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

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

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

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

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

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

20 (9) declare records to be confidential and exempt from AS 09.25.110 and  
21 09.25.120 if the records contain information that discloses the particulars of the business or the  
22 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

23 (c) In exercising investment, custodial, or depository powers or duties under this section,  
24 the fiduciary of a state fund [COMMISSIONER] shall exercise the judgment and care under  
25 the circumstances then prevailing that an institutional investor of ordinary professional prudence,  
26 discretion, and intelligence exercises in managing large investments with consideration for the  
27 purpose of the fund, the investment objectives, the continuing disposition of the fund's  
28 investments, and the probable safety of the capital as well as the probable investment returns.  
29 With respect to the Alaska State Pension Investment Board, the fiduciaries of the board  
shall apply the prudent investor rule and exercise their fiduciary duty in the sole financial  
best interest of the funds entrusted to them and of the beneficiaries of those funds. The

30 Prudent  
31 Investor  
Rule

1 trustees may not make or authorize investment decisions or voting of shares for a purpose  
2 other than the sole financial best interest of the funds or beneficiaries.

*Delegations*

3 (d) In exercising investment, custodial, or depository powers or duties under this section,  
4 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE  
5 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this  
6 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160,  
7 37.14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE  
8 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to  
9 another person if the delegation is prudent under the applicable standard of prudence set out in  
10 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary  
11 [COMMISSIONER] or designee

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

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

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

*Indemnification  
for prudent  
acts*

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

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

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

28 (2) with respect to the Alaska State Pension Investment Board, for  
29 investments under AS 14.25.180,

30 (A) each trustee who serves on the board of trustees; and

31 (B) any other person who exercises control or authority with respect

*Designation  
of fiduciaries*

1 to management or disposition of assets for which the board is responsible or who  
2 gives investment advice to the board; or

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

5 \* Sec. 13. AS 37.14.160 is amended to read:

6 Sec. 37.14.160. DUTIES OF THE COMMISSIONER OF REVENUE. The commissioner  
7 of revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

8 (1) in carrying out investment duties under this section, exercise the same  
9 powers and duties established for the Alaska State Pension Investment Board in  
10 AS 14.25.180(c);

11 (2) deposit the principal and income from investments in separate principal and  
12 income accounts for the fund;

13 (3) invest and maintain accounting records that distinguish between the principal  
14 and income of the fund;

15 (4) provide reports to the board established under AS 37.14.120 on the condition  
16 and investment performance of the fund.

17 \* Sec. 14. AS 39.30 is amended by adding a new section to read:

18 Sec. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS. (a) The Alaska  
19 State Pension Investment Board is the fiduciary of the mandatory receipts, under  
20 AS 39.30.150(a), of the employee benefits program established under AS 39.30.150 - 39.30.180  
21 and has the same powers and duties concerning the management and investment in regard to  
22 those receipts as are provided under AS 14.25.180.

23 (b) The board may provide a range of investment options and permit a participant or  
24 beneficiary of the program to exercise control over the assets in the individual employee annuity  
25 account established under AS 39.30.150(a). If the board offers investment options, and if a  
26 participant or beneficiary exercises control over the assets in the individual employee annuity  
27 account,

28 (1) the participant or beneficiary is not considered a fiduciary for any reason on  
29 the basis of exercising that control; and

30 (2) a person who is otherwise a fiduciary is not liable under this section for any  
31 loss, or by reason of any breach, that results from the individual's exercise of control.

6. Correcting language  
7. so as not to alter  
8. the Public School  
9. Trust Fund, which  
10. references to the  
11. TRS statutes.

SBS  
19 sets out the  
20 board as fiduciary.

24 Board may provide  
25 a range of options  
26 allows for but  
27 of require  
28 "participant  
29 directed plan."

31 If participant  
directed - protects  
fiduciary from  
individual's  
exercise of  
control.  
CSSB 329(STA)

SBS  
cont

1 Requires board  
2 to consult with Admin  
3 prior to changing  
4 plans

5 Contingency  
6 Plan for carrier  
7 problems.

8 PERS  
9 existing statute

10 requires the  
11 Board to provide  
12 specific information  
13 to Administration

(c) If the board is considering entering into a contract or modifying an existing contract concerning the management or investment of the mandatory receipts of the supplemental employee benefits program, the board shall consult with the commissioner of administration before making a decision on the issue.

(d) The board shall develop a contingency plan that addresses the board's response to possible future investment problems.

(e) In this section, "board" means the Alaska State Pension Investment Board.

8 \* Sec. 15. AS 39.35.020 is amended to read:

9 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible  
10 for the administration of the system and for carrying out this chapter. In addition, the  
11 commissioner shall

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

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

3 \* Sec. 16. AS 39.35.040 is amended by adding a new paragraph to read:

4 *PERS* (11) adopt regulations for the election of trustees to the Alaska State Pension  
*Board to adopt regulations concerning elections and removal.* Investment Board and for removal from the investment board of trustees elected from the system.

5 \* Sec. 17. AS 39.35.080 is amended to read:

6 *PERS* Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION INVESTMENT

7 BOARD [COMMISSIONER OF REVENUE]. The Alaska State Pension Investment Board

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

9 fiduciary of the fund. The board [COMMISSIONER] has the same powers and duties

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

11 14.25.180.

12 \* Sec. 18. AS 39.35.500 is amended to read:

13 *PERS* Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM.

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

15 amounts held in the system are exempt from Alaska state and local taxes. Amounts held on

16 behalf of, or payable to, any employee or other person who is or may become eligible for

17 benefits under the system are not subject to anticipation, alienation, sale, transfer, assignment,

18 pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being

19 received by the person entitled to the amount under the terms of the system. An attempt to

20 anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a

21 right to amounts held under the system is void. However, an employee's right to receive benefits

22 may be assigned under a qualified domestic relations order.

23 \* Sec. 19. AS 39.45.030(a) is repealed and reenacted to read:

24 (a) The Alaska State Pension Investment Board is authorized, subject to contracts with

25 individual employees, to invest the funds held under a deferred compensation program. The

26 board has the same powers and duties concerning the management and investment in regard to

27 those funds as are provided under AS 14.25.180.

28 \* Sec. 20. AS 39.45.030 is amended by adding new subsections to read:

29 (c) The board may provide a range of investment options and permit a participant or

30 beneficiary of the program to exercise control over the assets in the individual's account. If the

31 *language as SBS.*

32 *CSSB 329(STA)*

*Board to adopt regulations concerning elections and removal.*

*replaces commissioner with Board.*

*allows multi taxation of foreclosed properties - conforms to current law*

*Deferred Compensation*

*Board as Investor of Funds*

*Deferred Comp - some language as SBS.*

1 board offers investment options, and if a participant or beneficiary exercises control over the  
2 assets in the individual's account,

3 (1) the participant or beneficiary is not considered a fiduciary for any reason on  
4 the basis of exercising that control; and

5 (2) a person who is otherwise a fiduciary is not liable under this section for any  
6 less, or by reason of any breach, that results from the individual's exercise of control.

7 (d) If the board is considering entering into a contract or modifying an existing contract  
8 concerning the management or investment of funds of the deferred compensation program, the  
9 board shall consult with the commissioner of administration before making a decision on the  
10 issue.

11 (e) The board shall develop a contingency plan that addresses the board's response to  
12 possible future investment problems.

13 (f) In this section, "board" means the Alaska State Pension Investment Board.

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

(54) Alaska State Pension Investment Board (AS 37.10.210).

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

*Board added to conflict of Interest*

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

*Adds funds managed by Board to DOR duties.*

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

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

23 (3) register cattle brands;

24 (4) supply necessary clerical and administrative services for the Alcoholic  
25 Beverage Control Board; [AND]

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

28 (6) in accordance with the policies established by the board of trustees of the  
Alaska State Pension Investment Board, collect, account for, have custody of, invest, and  
manage the state funds for which the board is responsible.

*Requires board to work in accordance with 30 Board policies.*

31 \* Sec. 23. AS 44.25 is amended by adding a new section to read:

*Allows comm. of Real to designate employees who are subject to conflict of interest provisions.*

1           Sec. 44.25.028. CONFLICT OF INTEREST FOR ALASKA STATE PENSION  
 2 INVESTMENT BOARD. (a) The commissioner of revenue may designate employees of the  
 3 department who are subject to the provisions of AS 39.50 because of their responsibility for  
 4 participating in the management or investment of the funds for which the Alaska State Pension  
 5 Investment Board is responsible.

6           (b) If an officer or employee of the department with responsibility for funds for which  
 7 the Alaska State Pension Investment Board is responsible acquires, owns, or controls an interest,  
 8 direct or indirect, in an entity or project in which assets under the control of the board are  
 9 invested, the officer or employee shall immediately disclose the interest to the board. The  
 10 disclosure is a matter of public record and shall be included in the minutes of the board meeting  
 11 next following the disclosure. The commissioner shall adopt regulations to restrict officers and  
 12 employees of the department from having a substantial interest in an entity or project in which  
 13 assets under the control of the board are invested.

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

16 \* Sec. 24. AS 39.45.030(b) is repealed.

*Repeals unnecessary language due to change in Deferred Comp. section.*

17 \* Sec. 25. TRANSITION. All litigation, hearings, investigations, and other proceedings pending  
 18 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,  
 19 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal  
 20 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended  
 21 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise  
 22 modified under the provisions of this Act. All contracts, rights, liabilities, and obligations created by  
 23 or under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 30 of  
 24 this Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other  
 25 property of agencies of the state whose functions are transferred under this Act shall be transferred  
 26 commensurate with the provisions of this Act.

27 \* Sec. 26. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by  
 28 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue, of the board  
 29 of trustees of the Alaska State Pension Investment Board shall be as follows:

30           (1) one member elected from the public employees' retirement system and one appointed  
 31 member shall serve terms of four years;

*Disclosure Requirements  
 DOR to adopt reg. re: conflict*

*Failure to comply with grounds for termination*

*Transition*

*Board Organization*

*Initial terms*

1 (2) one member elected from the teachers' retirement system and one appointed member  
2 shall serve terms of three years;

3 (3) one member elected from the public employees' retirement system and one appointed  
4 member shall serve terms of two years;

5 (4) one member elected from the teachers' retirement system shall serve a one-year term.

6 (b) The board of trustees of the Alaska State Pension Investment Board may hold organizational  
7 meetings as soon as a quorum of the board has been appointed to or selected for the board.

8 \* Sec. 27. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 26 of this  
9 Act take effect July 1, 1992. *July 1, 92 for board organization*

10 \* Sec. 28. Except as provided in sec. 27 of this Act, this Act takes effect on the earlier of July 1,  
11 1993, or the date established by resolution of the board of trustees of the Alaska State Pension  
12 Investment Board for the transfer to it of securities and assets of all the funds of the retirement systems,  
13 as defined in AS 37.10.390, enacted by sec. 1 of this Act, and the receipts of the employee benefits  
14 program established under AS 39.30.150 - 39.50.180 and of the deferred compensation programs under  
15 AS 39.45. The board shall promptly provide the revisor of statutes and the lieutenant governor with a  
16 copy of this resolution.

*sets out the earlier of July 1, 93 or the date  
established by resolution to begin managing  
and investing assets, as well as other duties.*

# New proposal offered to manage retirement funds

By DIRK MILLER

THE JUNEAU EMPIRE

1-6-92

The Hickel administration and an Anchorage senator have resolved a feud left over from last year about how best to manage more than \$5 billion in public employee retirement funds.

Anchorage Democrat Pat Pourchot pushed a bill through the Legislature last year to set up an independent corporation to manage the retirement funds. Gov. Walter J. Hickel, whose administration objected to the bill nearly every chance it got, vetoed it last summer saying it was too costly.

Instead, the administration proposed regulations that would create an advisory council to handle the

funds.

Last week Pourchot introduced a new bill, this time backed by the administration, that would set up a board to manage the assets of the public employees, teachers, judicial and military retirement systems, along with the state's Supplemental Benefits System.

In the new bill, the governor would appoint half of the eight-member board. Also, the board would be a state agency rather than a public corporation.

"It's a subtle difference," Pourchot said. "I think it meant more to the administration."

Darrel Rexwinkel, acting commissioner at the state Department of Revenue, said Pourchot's bill accom-

plishes the goals of the regulations and still gives the governor a say in investment decisions.

"We believe it accomplishes the objectives most people wanted to accomplish in the first place," Rexwinkel said today.

"The beneficiaries would have the representation of 50 percent of the board," he said. "The governor ... would have the other 50 percent."

The board would be composed of two members elected by the public employees system, two elected by the teachers system, three trustees appointed by the governor and the commissioner of Revenue - a member of the governor's cabinet.

Pourchot's bill from last year would have established a separate

corporation - similar to the Alaska Permanent Fund Corp. - to invest the pension funds. It would have included a nine-member board of trustees: four representatives of the retirement systems, the state Revenue and Administration department commissioners, two employer representatives and a member of a professional investment council that advised the board.

Before vetoing the measure in June, administration officials proposed new regulations that they said would perform just as well as the corporation. The regulations, however, would not have covered the Supplemental Benefits System, where the push started for new management of public employee retirement

money.

SBS has millions at risk in a failed Los Angeles-based insurance company that was taken over last year by California regulators. The realization that the state's investments could go sour prompted legislators to look for a better money management system rather than relying solely on state employees and consultants for advice.

In anticipation of a legislative answer this year, the administration has put the regulations on hold, Rexwinkel and Pourchot said.

"They have suspended them indefinitely," Pourchot said.

Lawmakers return to Juneau on Jan. 13.



**MANAGEMENT OF ALASKA STATE PENSION FUNDS  
POSITION PAPER  
1992**

**AARP POSITION**

The Alaska State Legislative Committee of the American Association of Retired Persons advocates creation of an independent investment corporation to manage the state pension funds and ensure the state's prudent and faithful discharge of its investment responsibilities as the fiduciary of various trust funds.

This public corporation would carry out the state's responsibilities to facilitate the prudent maximization of trust fund earnings by providing broader and more flexible management powers.

Size of the Corporation Board of Trustees should be small (7 to 9 members, yet operationally efficient and financially prudent. Representation on the Board should include TRS and PERS members (active and retired), employers, the public, and the Commissioner of Revenue.

Provision should be made for an Investment Advisory Council to make recommendations to the Board on investment strategies and procedures. The present TRS and PERS Boards should be retained.

Benefit management should remain in the Department of Administration.

**PROBLEM**

Many Alaskans are contributors to various State Retirement Systems with the expectation that the funds will be carefully protected and prudently invested to ensure the availability of benefits to the eligible beneficiary upon retirement.

The State of Alaska has the responsibility for the management of investments for the trust funds (approximately \$5 billion) of the Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System, Military Retirement System and Elected Public Officers' Retirement System.

By law, the Commissioner of Revenue is the sole fiduciary for the investment of the funds. (The Teachers' Retirement Board and Public Employees' Retirement Board have no direct role in the investment of the funds, although the boards are responsible for administering retirement benefits.) The Commissioner is a political appointee, subject to change every four years, which is disruptive to the continuity of the investment program. Since the Commissioner of Revenue has numerous responsibilities, there are limitations on the time that he/she can devote to the management of the funds.

ment's ability to tax oil and gas property within its jurisdiction. Any state initiative to impose a more restrictive interpretation should be rejected.

In 1988 the Senate Select Committee on Oil and Gas Taxation, chaired by former Department of Community and Regional Affairs Commissioner Lee McAnerney, was appointed to review the method by which the state interpreted and applied local taxing limitations on oil and gas property. After thoroughly researching this issue and conducting a series of public hearings, the committee recommended in its 1989 report that the present state interpretations of how local government limitations on oil and gas property are applied should continue.

9. **Tax Increment Financing:** The League urges the legislature to amend tax increment financing statutes to enable second class boroughs to sell revenue bonds for financing of public-owned infrastructure necessary for coal development.

#### E. PUBLIC EMPLOYEES' RETIREMENT

1. **Increases in Benefits:** The League urges that any legislation that increases the cost of the Public Employees' Retirement System or the Teachers' Retirement System due to increased benefits require the cost to be borne by contributions from the employees. The League urges the legislature to require fiscal notes to address the impact on each participating municipal employer if any amendments are made to the Public Employees' Retirement System or the Teachers' Retirement System.

Because municipal employees, including teachers, are members of the Public Employees' Retirement System or the Teachers' Retirement System, municipalities are affected by changes made by the legislature to either retirement program. Many times proposals are made to change a retirement system without focusing on the increased cost to municipalities that such changes will cause. Because the municipality has no control over the retirement system and any increase in retirement benefits will decrease funds available for other municipal services, any increase in retirement system costs resulting from legislative action should be borne by the employees who will benefit from the increased retirement benefits. Additionally, in order to assist municipalities and the legislature in evaluating changes to the retirement systems, fiscal notes accompanying such legislation should include an analysis of the fiscal impact on each of the participating municipalities.

2. **PERS/TRS Investment Board:** The League supports the establishment of an investment board for the management and investment of state pension trust funds, including the trust funds of the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS), insofar as the investment board includes representatives of trust beneficiaries and employers.

Alaskan municipalities make over half of all employer contributions to the PERS and TRS and are directly affected by the performance of these funds because of the effect fund earnings have on employer contribution rates and, thus, on local tax rates. At present, both PERS and TRS funds are managed by the Department of Revenue, with the Commissioner of the Department as the sole fiduciary.

Creation of an investment board would give visibility to and strengthen the trust status of pension trust funds. It would increase accountability, continuity, and public disclosure for the investment management of the funds by establishing a board as fiduciary, incorporating professional investment managers and trust administrators, as well as representatives of beneficiaries, on the investment board, and providing for the exercise of fiduciary powers through the forum of regularly scheduled public meetings rather than administrative actions. A board would give management the authority to act in a timely manner and compete fully with other professional institutional investors.

#### **F. FISCAL NOTES/GOVERNMENT MANDATES**

1. **Fiscal Notes:** The League supports enactment of legislation requiring affected state agencies to prepare, in consultation with the affected local governments, notes assessing the fiscal impact on local government of any proposed bill or regulation, including pass-through grants.

Numerous bills are introduced each year that would have an impact on the cost of the operation of the local governments. However, it appears that no analysis and little thought are given to the actual impact such legislation would have on affected municipalities. In order to assist the municipalities and the legislature in making informed decisions about such legislation, fiscal notes assessing the fiscal impact on local government of such bills are necessary.

2. **Reimbursement for Responsibilities Transferred from State:** The League urges passage of legislation that would require a government agency unilaterally transferring responsibility for a program to a municipality or imposing regulations on a municipality to reimburse the municipality for the costs of the transferred responsibility or regulations.

Proposals are occasionally made to require municipalities to undertake programs or activities for which there is either inadequate or no reimbursement. Proposals that shift the burden of such programs to municipalities should provide adequate reimbursement to the municipalities for the administration of such programs. No state or federal regulation that imposes a cost upon local governments should be enacted without reimbursement for that cost.



# Central Alaska Retired Teachers Association

Volume VI, Number 2

December 1991

## SENATOR POURCHOT OPTS FOR NEW FUND-MANAGEMENT BILL

At CARTA meetings this fall, the governor's veto of SB18 and possible future actions have been hot topics. It was agreed, however, that CARTA would follow the lead of Senator Pat Pourchot in working out a solution to the problem of how to manage the state's growing public employee and teacher retirement systems' funds. Senator Pourchot has worked diligently on the problem all summer with the Department of Revenue and has come up with a plan.

Correspondence from him dated December 6 reads as follows:

"Enclosed you will find a DRAFT of a bill I have developed, in cooperation with the Department of Revenue. This legislation will replace the Commissioner of Revenue as the sole fiduciary of the Retirement, SBS and Deferred Compensation funds with a representative Board of Trustees. The Board will be composed of four trustees elected by the PERS and TRS membership and four trustees appointed by the Governor.

"This proposed legislation does not establish a separate corporation. The separate corporation concept was the primary objection of the Department of Revenue to my previous bill, SB 18, which was vetoed. The new bill clearly establishes a strong Board of Trustees and sets out requirements for the Department to manage the funds in accordance with the Board policies.

"Many aspects of the previous bill have been

retained including: establishment of an Advisory Council, reporting requirements, investment training of the trustees, mandated audits and external performance evaluations, and directed coordination with the Department of Administration. . . ."

Senator Pourchot's letter continued by inviting our comments and suggesting we call him or his aide, Susan Barnett, at his Juneau office.

This bill is now available in WORKING DRAFT form

but is as yet unnumbered. Interested CARTA members can contact CARTA officers, legislative committee members or newsletter editor for a copy.

### YOUR EDITOR APOLOGIZES

In the September issue of the newsletter, I misstated the dues for ASRTA. Their annual dues are \$7.50 per year. A corrected dues statement is on page 3. I hope this has not caused anyone too much inconvenience. I'm sorry!

### PLAN A MARCH TRIP TO FAIRBANKS FOR ASRTA

As noted in the September issue of this newsletter, the 1992 annual

meeting of the Alaska State Retired Teachers Association will be held in Fairbanks, Saturday, March 21. President Lois Meier and AARP RTA coordinator Liz Lucas are promising a great program. Retired teachers from all parts of the state need to support this valuable organization. Mark your calendars!

### CARTA MEETING SCHEDULE FOR 1992

January 11	April 11
February 8	May 9
March 14	

**Come and bring a new or almost retiree!**

**MERRY CHRISTMAS AND A VERY HAPPY NEW YEAR**

1/21/92  
By Senator Pourchot

## COMPARISON OF SB 329 AND SB 18 PENSION FUND MANAGEMENT

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

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

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

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

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

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

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

#### BOARD COMPOSITION:

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

#### BOARD REQUIREMENTS:

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

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

FISCAL NOTE

BILL NO. SB- 329

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: Revenue

Title: Alaska State Pension Investment Board.

BRU: Operations

Component: Treasury Management

Sponsor: Senator Pourchot

Component Serial No.

Requestor: Senator Pourchot

0	1	2	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	50.0	52.0	54.1	56.2	58.5	60.8
TRAVEL	99.0	80.6	83.8	87.3	90.8	94.4
CONTRACTUAL	9.6	10.0	10.4	10.8	11.2	11.7
SUPPLIES	3.3	2.6	2.7	2.8	2.9	3.0
EQUIPMENT	15.0	1.0	1.0	1.0	1.0	1.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>176.9</b>	<b>146.2</b>	<b>152.0</b>	<b>158.1</b>	<b>164.4</b>	<b>170.9</b>

PITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	176.9	146.2	152.0	158.1	164.4	170.9
<b>TOTAL</b>	<b>176.9</b>	<b>146.2</b>	<b>152.0</b>	<b>158.1</b>	<b>164.4</b>	<b>170.9</b>

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: See attached worksheet.

Prepared by: Brian C. Andrews

Phone: 465-2350

Division: Treasury

Date: December 20, 1991

Approved by Commissioner: [Signature]

by: Revenue

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

Cost Analysis for Investment Board Legislation  
 Prepared by Brian C. Andrews  
 December 20, 1991

Assumptions:

	Meeting Yr 1	Meeting Yrs 2-6	Education Yrs 1-6
of Board members	8	8	8
of Meetings	6	4	1.5
Length of Meetings (days)	2	2	3
Travel days	1	1	1.5
Annual cost increase		4%	4%

Meeting Costs:	Per Category	Per Member	Per Meeting	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
Travel @	\$500	\$500	\$4,000	\$24,000	\$16,640	\$17,306	\$17,998	\$18,718	\$19,466
Per Diem @	150	450	3,600	21,600	14,976	15,575	16,198	16,846	17,520
Honorarium @	150	450	3,150	18,900	13,104	13,628	14,173	14,740	15,330
Supplies/Misc @	50	50	400	2,400	1,664	1,731	1,800	1,872	1,947
<b>Total</b>	<b>850</b>	<b>1,450</b>	<b>11,150</b>	<b>66,900</b>	<b>46,384</b>	<b>48,239</b>	<b>50,169</b>	<b>52,176</b>	<b>54,263</b>

Education Costs:

Travel @	1,500	1,500	12,000	18,000	18,720	19,469	20,248	21,057	21,900
Per Diem @	175	788	6,300	9,450	9,828	10,221	10,630	11,055	11,497
Honorarium @	150	675	4,725	7,088	7,371	7,666	7,972	8,291	8,623
Supplies/Misc @	75	75	600	900	936	973	1,012	1,053	1,095
Registration @	800	800	6,400	9,600	9,984	10,383	10,799	11,231	11,680
<b>Total</b>	<b>2,700</b>	<b>3,838</b>	<b>30,025</b>	<b>45,038</b>	<b>46,839</b>	<b>48,713</b>	<b>50,661</b>	<b>52,688</b>	<b>54,795</b>

Personal Service Costs:

	PFT	Salary							
Board Liaison	1	50,000	50,000	52,000	54,080	56,243	58,493	60,833	
Equipment - Projector/PC/Software			15,000	1,000	1,000	1,000	1,000	1,000	1,000
<b>Total</b>			<b>65,000</b>	<b>53,000</b>	<b>55,080</b>	<b>57,243</b>	<b>59,493</b>	<b>61,833</b>	

Total Investment Board Operating Costs:

<b>Total</b>	<b>176,938</b>	<b>146,223</b>	<b>152,032</b>	<b>158,073</b>	<b>164,356</b>	<b>170,890</b>
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Budget Categorization:

Personal Service	50,000	52,000	54,080	56,243	58,493	60,833
Travel	99,038	80,639	83,865	87,219	90,708	94,336
Contractual	9,600	9,984	10,383	10,799	11,231	11,680
Supplies	3,300	2,600	2,704	2,812	2,925	3,042
Equipment	15,000	1,000	1,000	1,000	1,000	1,000

Funding - Other

<b>Total</b>	<b>\$176,938</b>	<b>\$146,223</b>	<b>\$152,032</b>	<b>\$158,073</b>	<b>\$164,356</b>	<b>\$170,890</b>
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FT	1	1	1	1	1	1
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*Left Margin  
Explanatory Notes*

**CS CHANGES  
HIGHLIGHTED**

7-LS1609NG  
Cramer  
1/21/92

**CS FOR SENATE BILL NO. 329 (STATE AFFAIRS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE STATE AFFAIRS COMMITTEE**

Offered:  
Referred:

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

*Funds to be Managed:*  
PERS  
TRS  
Judicial  
Military  
SBS  
Deferred Comp.

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing the Alaska State Pension Investment Board; relating to management  
2 and investment of state pension funds, receipts of the supplemental employee benefits  
3 program, receipts of the deferred compensation program, and other state funds; and  
4 providing for an effective date."

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

6 \* Section 1. AS <sup>Public Funds Statute</sup> 37.10 is amended by adding new sections to read:

7 **ARTICLE 5. ALASKA STATE PENSION INVESTMENT BOARD.**

*8 Establishes  
Board in the Public  
9 Funds statutes*

*10 Purpose*

*13 8 Trustees  
(4 elected  
& 4 appointed)*

8 Sec. 37.10.210. ALASKA STATE PENSION INVESTMENT BOARD. (a) There is  
9 established the Alaska State Pension Investment Board in the Department of Revenue. The  
10 purpose of the board is to provide prudent and productive management and investment of state  
11 pension funds and of other state funds upon agreement with the commissioner of the department  
12 or the fiduciary responsible for the fund.

13 (b) The board consists of eight trustees. Two of the trustees shall be elected by the  
14 members of the public employees' retirement system from the membership of the system.

CS Proposed (Pourchot) changes highlighted, amend.'s included

Board Composition:

WORK DRAFT

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- 1 <sup>(2) PERS</sup> Nominations may be made by the Public Employees' Retirement Board or by petition signed by
- 2 <sup>i must be SBS</sup> at least 10 persons eligible to vote in the election. One of the trustees elected from the
- 3 membership of the public employees' retirement system must be a participant in the supplemental
- 4 <sup>(2) TRS</sup> employee benefits program established under AS 39.30.150 - 39.30.180. Two of the trustees
- 5 shall be elected by the members of the teachers' retirement system from the membership of the
- 6 <sup>(3) Gov. appoint</sup> system. Nominations may be made by the Teachers' Retirement Board or by petition signed by
- 7 at least 10 persons eligible to vote in the election. The governor shall appoint three trustees. At
- 8 <sup>(1) Comm. of Revenue</sup> least one of the appointed trustees must represent employers, other than the state, who participate
- 9 <sup>qualifications</sup> in one of the retirement systems. The appointed trustees must have business and investment
- 10 experience. The commissioner of revenue serves as a trustee.
- 11 <sup>4 year staggered terms</sup> (c) The appointed and elected trustees shall serve for staggered terms of four years and
- 12 may be reappointed or reelected to the board.
- 13 (d) The governor may, by written notice to the trustee, remove an appointed trustee for
- 14 <sup>Removal of appointees by Governor</sup> cause. The Public Employees' Retirement Board may, by written notice to the trustee, remove
- 15 a member elected from the membership of that retirement system for cause. The Teachers'
- 16 Retirement Board may, by written notice to the trustee, remove a member elected from the
- 17 membership of that retirement system for cause. After a trustee receives written notice of
- 18 <sup>Removal and reselection PERS/TRS Board</sup> removal, the trustee may not participate in board business and may not be counted for purposes
- 19 of establishing a quorum.
- 20 (e) A vacancy on the board of trustees shall be promptly filled in the same manner as
- 21 <sup>Vacancy</sup> the seat was originally filled. A person filling a vacancy holds office for the balance of the
- 22 unexpired term of the person's predecessor. A vacancy on the board does not impair the
- 23 authority of a quorum of the board to exercise all the powers and perform all the duties of the
- 24 board.
- 25 <sup>Chair</sup> (f) The board of trustees shall annually elect a chair from among its members.
- 26 <sup>Quorum</sup> (g) Five trustees constitute a quorum for the transaction of business and the exercise of
- 27 the powers and duties of the board.
- 28 (h) A trustee may not designate another person to serve on the board in the absence of
- 29 <sup>No designees</sup> the trustee.
- 30 (i) The board shall adopt a policy concerning investment education for trustees.
- 31 <sup>Training Policy</sup> Sec. 37.10.220. POWERS AND DUTIES OF THE BOARD. (a) The board shall

Powers and Duties - Board shall ... Subsection (a) 1-9

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

3 *set investment* (2) establish investment policies for the funds for which it is responsible after  
4 *policies* reviewing recommendations from the investment advisory council and the Department of  
5 Revenue;

6 *Reports to LB; A* (3) submit long-range and quarterly investment reports to the Legislative Budget  
7 and Audit Committee;

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

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

16 *Independent Audit* (6) engage independent certified public accountants to perform an annual audit  
17 of each of the funds for which the board is responsible and to report to the board with the results  
18 of the audit;

19 *Review "expected rate of return" every 2 years and report to boards* (7) review the actuarial earnings assumption for each fund for which the board  
20 is responsible every two years and report its findings and recommendations to the appropriate  
21 board or agency;

22 *After reviewing council and staff rec's select and retain managers and custodians* (8) after reviewing the recommendations from the Department of Revenue and  
23 the advisory council, select and retain the external investment managers and custodians for the  
24 funds managed by the board;

25 *Develop and present budget to DOR, OMB, legis* (9) develop an annual operating budget plan and present it to the Department of  
26 Revenue, the office of management and budget, and the legislature.

27 *Subsection (b) 1-5 are may* (b) The board may  
28 *employ outside advisors* (1) employ outside investment advisors to review investment policies and make  
29 recommendations to the board;

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

31 *contract for services* (3) contract for services necessary to carry out its powers and duties;

1 (4) enter into an agreement with the commissioner of the department or the  
 2 fiduciary responsible for another state fund to assume fiduciary or management responsibilities  
 3 for investing the other state fund;

4 (5) do all acts necessary to carry out the powers expressly granted or necessarily  
 5 implied in this chapter.

6 (c) The board shall meet annually, either jointly or separately, with the Public  
 7 Employees' Retirement Board, the Teachers' Retirement Board, and the Department of  
 8 Administration to review benefit administration of each of the retirement systems and of the  
 9 employee benefits program established under AS 39.30.150 - 39.30.180 and the deferred  
 10 compensation program under AS 39.45. The Department of Administration and each retirement  
 11 board shall report to the investment board on benefit administration and other issues for that  
 12 retirement system or program that may affect the investment and management of the fund.

13 (d) The chair of the board shall appoint a trustee to present the board's position to  
 14 legislative committees when the committees are considering the board's operating budget. The  
 15 board is otherwise subject to AS 37.07.

16 Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions  
 17 of AS 39.50.

18 (b) If a trustee acquires, owns, or controls an interest, direct or indirect, in an entity or  
 19 project in which assets under the control of the board are invested, the trustee shall immediately  
 20 disclose the interest to the board. The disclosure is a matter of public record and shall be  
 21 included in the minutes of the board meeting next following the disclosure. The board shall  
 22 adopt regulations to restrict trustees from having a substantial interest in an entity or project in  
 23 which assets under the control of the board are invested.

24 A.P.A. Sec. 37.10.240. REGULATIONS AND OPEN MEETINGS. (a) The board may adopt  
 25 regulations to implement AS 37.10.210 - 37.10.390. Regulations adopted by the board are not  
 26 subject to the Administrative Procedure Act (AS 44.62). The board shall adopt regulations  
 27 required by AS 36.30.015(f) relating to procurement. The board shall comply with the  
 28 requirements of AS 44.62.310 - 44.62.312.

29 (b) Notwithstanding (a) of this section, a regulation adopted under AS 37.10.210 -  
 30 37.10.390 shall be published in the Alaska Administrative Register and Alaska Administrative  
 31 Code for informational purposes. A regulation adopted under this section shall conform to the

*other state funds*

*necessary acts*

*Directed coordination with Dept. of Admin and appropriate boards to review benefit administration.*

*Board rep. w budget process*

*Conflict of Interest*

*provisions for trustees*

*Disclosure Regs.*

*Conflict of Interest Regs.*

*Exempt from A.P.A. must comply with open meetings*

*Regs must conform and must be published.*

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regulations can't...

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1 style and format requirements of the drafting manual for administrative regulations that is  
2 published under AS 44.62.050.

3 (c) At least 30 days before the adoption, amendment, or repeal of a regulation under this  
4 chapter, the board shall provide notice of the action that is being considered. The notice must  
5 include publication in one or more newspapers of general circulation in each judicial district of  
6 the state.

7 (d) A regulation adopted under this chapter takes effect 30 days after adoption by the  
8 board unless a later effective date is stated in the regulation.

9 (e) Notwithstanding the other provisions of this section, a regulation may be adopted,  
10 amended, or repealed, effective immediately, as an emergency regulation. For an emergency  
11 regulation to be effective the board must find that the immediate adoption, amendment, or repeal  
12 of the regulation is necessary. The board shall, within 10 days after adoption of an emergency  
13 regulation, give notice of the adoption under (c) of this section. An emergency regulation  
14 adopted under this subsection may not remain in effect past the date of the next regular meeting  
15 of the board unless the board complies with the procedures set out in this section and adopts the  
16 regulation as a permanent regulation.

17 (f) In this section, "regulation" has the meaning given in AS 44.62.640(a).

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

26 Sec. 37.10.260. STAFF. (a) The Department of Revenue shall provide staff for the  
27 board.

28 (b) The board may designate a trustee or an officer or employee of the Department of  
29 Revenue to be responsible for signing on behalf of the board a deed, contract, or other document  
30 that must be executed by or on behalf of the board.

31 Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint

Investment  
Advisory  
Council  
min=3  
max=5

\$150  
honorarium

Per Diem/  
Travel

DOR to provide  
staff to the  
board.

Signatory

30 day  
notice

30 day effective  
date

emergency  
regulations

Standard  
Regulation  
Definition

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

2 Council  
3 Qualifications  
4

Members of the council shall possess experience and expertise in financial investments and management of investment portfolios for public, corporate, or union pension benefit funds, foundations, or endowments.

5 (b) Members of the council serve at the pleasure of the board for staggered terms of three  
6 3 year terms  
7 years.

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

11 Council - Powers; Duties (d) The council shall

- 12 (1) review the investments made by the board;
- 13 (2) make recommendations to the board concerning the board's investment policies, investment strategy, and investment procedures;
- 14 (3) advise the board on selection of performance consultants and on the form and
- 15 content of annual reports;
- 16 (4) provide other advice as requested by the board.

17 (e) With approval of the board, the council may contract with other state agencies to  
18 May contract with other state agencies  
19 provide investment advice.

20 **AND ASSETS** Sec. 37.10.280. INSURANCE. The board shall ensure that trustee assets and its own services are protected. The board may purchase insurance or provide for self-insurance retention  
21 in amounts recommended by the commissioner of revenue and approved by the board to cover  
22 Protection of assets and state  
23 the acts, including fiduciary acts, errors, and omissions of its board members and agents. Insurance must protect the board and the state from liability to others and from loss of trustee assets  
24 due to the acts or omissions of the trustees.

25 Sec. 37.10.290. EXEMPTION FROM TAXATION. Except as provided in  
26 Previous exemption from taxation except for foreclosed properties.  
27 AS 29.45.030(a) for property acquired through foreclosure or deed in lieu of foreclosure, the  
28 board and all properties at any time owned by it, managed by it, or held by it in trust, and the  
29 income from those activities, are exempt from all taxes and assessments in the state. All security  
30 instruments issued by the board and income from them are exempt from all taxes and assessments in the state, including transfer taxes.

31 Board limitations Sec. 37.10.300. LIMITATIONS. The board may not engage in commercial banking

1 activity or private trust activity. The board may not act as a depository or trustee for a private  
 2 person, association, or corporation. The board may not act as a lender to a private person,  
 3 association, or corporation of money from any source except state funds under management by  
 4 the board.

5 Sec. 37.10.310. LIABILITY. A liability incurred by the board shall be satisfied  
 6 exclusively from the trust assets or trust revenue, and a creditor or other person may not have  
 7 a right of action against the state because of a debt, obligation, or liability of the board.

8 Sec. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context  
 9 otherwise requires,

10 (1) "board" means the board of trustees of the Alaska State Pension Investment  
 11 Board;

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

15 \* Sec. 2. AS 14.25.035(d) is amended to read:

16 (d) The commissioner of administration shall report to the board concerning the condition  
 17 and administration of the system. The reports shall be distributed to the members of the system.  
 18 The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE] shall provide  
 19 reports to the board on the condition and investment performance of the teachers' retirement trust  
 20 fund including a summary of an annual external performance review.

21 \* Sec. 3. AS 14.25.035 is amended by adding a new subsection to read:

22 (j) The board shall adopt regulations for the election of trustees to the Alaska State  
 23 Pension Investment Board and for removal from the investment board of trustees elected from  
 24 the system.

25 \* Sec. 4. AS 14.25.180 is amended to read:

26 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The Alaska  
 27 State Pension Investment Board [COMMISSIONER OF REVENUE] is the [TREASURER OF  
 28 THE SYSTEM AND THE] fiduciary of the fund. In managing the fund, the Alaska State  
 29 Pension Investment Board [COMMISSIONER OF REVENUE] shall

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

Limits the  
states responsibility  
for Board liability  
NO General Fund

Definitions

TRS  
replaces commissioner  
with Board  
for reporting  
requirements

TRS Board to  
adopt regs for  
election and removal  
of trustees

TRS  
Replaces Comm.  
with Board as  
fiduciary in  
existing TRS  
statutes.

- 1 (2) determine the appropriate investment objectives for the fund;
- 2 (3) establish investment policies aimed at achieving the objectives; and
- 3 (4) act only in regard to the best financial interests of the system's plan and
- 4 beneficiaries.

5 (b) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
 6 may invest the fund on the basis of probable total rate of return without regard to the distinction  
 7 between principal and income or to the generation of income.

8 (c) In carrying out investment duties under this chapter, the Alaska State Pension  
 9 Investment Board [COMMISSIONER OF REVENUE] has the same powers and duties in regard  
 10 to the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard  
 11 of prudence that the board [COMMISSIONER] must obey under AS 37.10.071(c) shall be in  
 12 regard to the management of large trust investments rather than large investments.

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

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

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

24 *Judicial Retirement System* (c) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
 25 is the [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same  
 26 powers and duties under this section in regard to the judicial retirement trust fund as are provided  
 27 in AS 14.25.180.

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

29 *Military Retirement System* (c) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
 30 is the [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same  
 31 powers and duties under this section in regard to the fund as are provided under AS 14.25.180.

*Clarifying that a TRS exemption on foreclosed property conforms to SB 78, which passed 2018 year.*

PREVIOUS VERSION - SB 329 CONTAINED TWO UNNECESSARY SECTIONS CONCERNING MUNICIPAL TAXATION OF FORECLOSED PROPERTY. CS REFLECTS REMOVAL OF THOSE SECTIONS.

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→ Procurement Regs.

1 \* Sec. 8. AS 36.30.015(f) is amended to read:

2 (f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding  
3 AS 18.56.088, and the board of directors of the Alaska State Housing Authority shall adopt  
4 regulations under the Administrative Procedure Act (AS 44.62) and the board of trustees of the  
5 Alaska State Pension Investment Board shall adopt regulations under AS 37.10.240 to  
6 govern the procurement of supplies, services, professional services, and construction for the  
7 respective public corporations and board. The regulations must

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

10 (2) include procurement methods to meet emergency and extraordinary  
11 circumstances.

12 \* Sec. 9. AS 36.30.850(b)(15) is amended to read:

13 Procurement Regs changed to reflect new bill (15) a contract that is a delegation, in whole or in part, of investment powers held  
14 by the commissioner of revenue under [AS 14.25.180,] AS 14.40.400, AS 14.42.200, 14.42.210,  
15 AS 18.56.095, [AS 22.25.048, AS 26.05.228,] AS 37.10.070, 37.10.071, or AS 37.14 [, OR  
16 AS 39.35.080];

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

18 (1) "agency"

19 Procurement Code Exemption (A) means a department, institution, board, commission, division,  
20 authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of  
21 the executive branch of state government;

22 (B) does not include

23 (i) the University of Alaska;

24 (ii) the Alaska State Housing Authority;

25 (iii) the Alaska Railroad Corporation;

26 (iv) the Alaska Housing Finance Corporation;

27 (v) a regional Native housing authority created under AS 18.55.996

28 [,] or a regional electrical authority created under AS 18.57.020;

29 (vi) the Alaska Aerospace Development Corporation;

30 (vii) the Alaska State Pension Investment Board;

31 \* Sec. 11. AS 37.05.146 is amended to read:

Definition of Program Receipts changed to include SBS & Def. Comp. See subsections 0 and P.

Program Receipts  
Con't

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

- (1) federal receipts;
- (2) University of Alaska receipts (AS 14.40.491);
- (3) individual, foundation, or corporation gifts, grants, or bequests that by their terms are restricted to a specific purpose;
- (4) receipts of the following funds:
  - (A) highway working capital fund (AS 44.68.210);
  - (B) correctional industries fund (AS 33.32.020);
  - (C) loan funds;
  - (D) international airport revenue fund (AS 37.15.430);
  - (E) funds managed by the Alaska State Housing Authority (AS 18.55.020), the Alaska Housing Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), the Alaska Aerospace Development Corporation (AS 14.40.821), or the Alaska Industrial Development and Export Authority (AS 44.88.020);
  - (F) fish and game fund (AS 16.05.100);
  - (G) school fund (AS 43.50.140);
  - (H) training and building fund (AS 23.20.130);
  - (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and former AS 39.37);
  - (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
  - (K) public school fund (AS 37.14.110);
  - (L) second injury fund (AS 23.30.040);
  - (M) fishermen's fund (AS 23.35.060);
  - (N) FICA administration fund (AS 39.30.050);
  - (O) receipts of the employee benefits program established under AS 39.30.150 - 39.30.180;
  - (P) receipts of the deferred compensation program established under

1 AS 39.45.

2 \* Sec. 12. AS 37.10.071 is amended to read:

3 Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making investments

4 under this section, the fiduciary of a state fund [COMMISSIONER OF REVENUE] shall

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

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

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

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

11 (5) receive and spend appropriations to cover the cost of the exercise of duties

12 under this section;

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

14 (7) perform all acts, not prohibited by this section, whether or not expressly

15 authorized, that the fiduciary [COMMISSIONER] considers necessary or proper in administering  
16 the assets;

17 (8) maintain accounting records in accordance with generally accepted  
18 [INVESTMENT] accounting principles;

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

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

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

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

28 (1) delegate investment, custodial, or depository authority on a discretionary or  
29 nondiscretionary basis to officers or employees of the state or to independent firms, banks,  
30 financial institutions, or trust companies [,] by designation through appointments, contracts, or  
31 letters of [OR] authority;

Public Funds  
Replaces the  
Commissioner of  
Revenue with the  
language "fiduciary  
of state fund"  
in current statutes  
(both subsections  
a & b)

G.A.A.P.

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

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

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

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

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

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

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

20 (9) declare records to be confidential and exempt from AS 09.25.110 and  
21 09.25.120 if the records contain information that discloses the particulars of the business or the  
22 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

23 (c) In exercising investment, custodial, or depository powers or duties under this section,  
24 the fiduciary of a state fund [COMMISSIONER] shall exercise the judgment and care under  
25 the circumstances then prevailing that an institutional investor of ordinary professional prudence,  
26 discretion, and intelligence exercises in managing large investments with consideration for the  
27 purpose of the fund, the investment objectives, the continuing disposition of the fund's  
28 investments, and the probable safety of the capital as well as the probable investment returns.  
29 With respect to the Alaska State Pension Investment Board, the fiduciaries of the board  
30 shall apply the prudent investor rule and exercise their fiduciary duty in the sole financial  
31 best interest of the funds entrusted to them and of the beneficiaries of those funds. The

Prudent  
Investor  
Rule

1 trustees may not make or authorize investment decisions or voting of shares for a purpose  
2 other than the sole financial best interest of the funds or beneficiaries.

*Delegations*

3 (d) In exercising investment, custodial, or depository powers or duties under this section,  
4 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE  
5 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this  
6 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160,  
7 37.14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE  
8 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to  
9 another person if the delegation is prudent under the applicable standard of prudence set out in  
10 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary  
11 [COMMISSIONER] or designee

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

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

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

*Indemnification  
for prudent  
acts*

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

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

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

28 (2) with respect to the Alaska State Pension Investment Board, for  
29 investments under AS 14.25.180,

30 (A) each trustee who serves on the board of trustees; and

31 (B) any other person who exercises control or authority with respect

*Designation  
of fiduciaries*

1 to management or disposition of assets for which the board is responsible or who  
2 gives investment advice to the board; or

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

5 \* Sec. 13. AS 37.14.160 is amended to read:

6. Correcting language  
7. so as not to alter  
8. the Public School  
9. Trust Fund, which  
10. references to the  
11. statutes.  
12 Sec. 37.14.160. DUTIES OF THE COMMISSIONER OF REVENUE. The commissioner  
of revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

13 (1) in carrying out investment duties under this section, exercise the same  
14 powers and duties established for the Alaska State Pension Investment Board in  
15 AS 14.25.180(c);

16 (2) deposit the principal and income from investments in separate principal and  
17 income accounts for the fund;

18 (3) invest and maintain accounting records that distinguish between the principal  
19 and income of the fund;

20 (4) provide reports to the board established under AS 37.14.120 on the condition  
21 and investment performance of the fund.

22 \* Sec. 14. AS 39.30 is amended by adding a new section to read:

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

29 (b) The board may provide a range of investment options and permit a participant or  
30 beneficiary of the program to exercise control over the assets in the individual employee annuity  
31 account established under AS 39.30.150(a). If the board offers investment options, and if a  
participant or beneficiary exercises control over the assets in the individual employee annuity  
account,

(1) the participant or beneficiary is not considered a fiduciary for any reason on  
the basis of exercising that control; and

(2) a person who is otherwise a fiduciary is not liable under this section for any  
loss, or by reason of any breach, that results from the individual's exercise of control.

31 If participant directed - protects individual from exercise of control.  
CSSB 329(STA)

SBS  
const

1 Requires board  
2 to consult with Admin  
3 prior to changing  
4 plans

5 Contingency  
6 Plan for carrier  
7 problems.

8 PERS  
9 existing statute

10 requires the  
11 Board to provide  
12 specific information  
13 to Administration

(c) If the board is considering entering into a contract or modifying an existing contract concerning the management or investment of the mandatory receipts of the supplemental employee benefits program, the board shall consult with the commissioner of administration before making a decision on the issue.

(d) The board shall develop a contingency plan that addresses the board's response to possible future investment problems.

(e) In this section, "board" means the Alaska State Pension Investment Board.

8 \* Sec. 15. AS 39.35.020 is amended to read:

9 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible  
10 for the administration of the system and for carrying out this chapter. In addition, the  
11 commissioner shall

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

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

3 \* Sec. 16. AS 39.35.040 is amended by adding a new paragraph to read:

Board to adopt reg's concerning elections and removal.

4 (11) adopt regulations for the election of trustees to the Alaska State Pension Investment Board and for removal from the investment board of trustees elected from the system.

5 \* Sec. 17. AS 39.35.080 is amended to read:

PER'S replaces commissioner with Board.

6 Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION INVESTMENT BOARD [COMMISSIONER OF REVENUE]. The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund. The board [COMMISSIONER] has the same powers and duties established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and 14.25.180.

7 \* Sec. 18. AS 39.35.500 is amended to read:

allows muni taxation of foreclosed properties - conforms to current law

8 PER'S Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM. Except as provided in AS 29.45.030(a)(1)(D), employee [EMPLOYEE] contributions and other amounts held in the system are exempt from Alaska state and local taxes. Amounts held on behalf of, or payable to, any employee or other person who is or may become eligible for benefits under the system are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being received by the person entitled to the amount under the terms of the system. An attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a right to amounts held under the system is void. However, an employee's right to receive benefits may be assigned under a qualified domestic relations order.

9 \* Sec. 19. AS 39.45.030(a) is repealed and reenacted to read:

Deferred Compensation

10 (a) The Alaska State Pension Investment Board is authorized, subject to contracts with individual employees, to invest the funds held under a deferred compensation program. The board has the same powers and duties concerning the management and investment in regard to those funds as are provided under AS 14.25.180.

Board as Investor of Funds

11 \* Sec. 20. AS 39.45.030 is amended by adding new subsections to read:

Deferred Comp - some language as SBS. CSSB 329(STA)

12 (c) The board may provide a range of investment options and permit a participant or beneficiary of the program to exercise control over the assets in the individual's account. If the

1 board offers investment options, and if a participant or beneficiary exercises control over the  
2 assets in the individual's account,

3 (1) the participant or beneficiary is not considered a fiduciary for any reason on  
4 the basis of exercising that control; and

5 (2) a person who is otherwise a fiduciary is not liable under this section for any  
6 loss, or by reason of any breach, that results from the individual's exercise of control.

7 (d) If the board is considering entering into a contract or modifying an existing contract  
8 concerning the management or investment of funds of the deferred compensation program, the  
9 board shall consult with the commissioner of administration before making a decision on the  
10 issue.

11 (e) The board shall develop a contingency plan that addresses the board's response to  
12 possible future investment problems.

13 (f) In this section, "board" means the Alaska State Pension Investment Board.

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

(54) Alaska State Pension Investment Board (AS 37.10.210).

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

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

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

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

21 Pension Investment Board;

22 (3) register cattle brands;

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

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

27 (6) in accordance with the policies established by the board of trustees of the  
28 Alaska State Pension Investment Board, collect, account for, have custody of, invest, and  
29 manage the state funds for which the board is responsible.

30 \* Sec. 23. AS 44.25 is amended by adding a new section to read:

*Board added to conflict of interest*  
*Adds funds managed by DOR Board to duties.*

*Requires board to work in accordance with 30 Board policies.*

*Allows Comm. of Rev. to designate employees who are subject to conflict of interest provisions.*

1           Sec. 44.25.028. CONFLICT OF INTEREST FOR ALASKA STATE PENSION  
 2 INVESTMENT BOARD. (a) The commissioner of revenue may designate employees of the  
 3 department who are subject to the provisions of AS 39.50 because of their responsibility for  
 4 participating in the management or investment of the funds for which the Alaska State Pension  
 5 Investment Board is responsible.

6           (b) If an officer or employee of the department with responsibility for funds for which  
 7 the Alaska State Pension Investment Board is responsible acquires, owns, or controls an interest,  
 direct or indirect, in an entity or project in which assets under the control of the board are  
 invested, the officer or employee shall immediately disclose the interest to the board. The  
 disclosure is a matter of public record and shall be included in the minutes of the board meeting  
 next following the disclosure. The commissioner shall adopt regulations to restrict officers and  
 employees of the department from having a substantial interest in an entity or project in which  
 assets under the control of the board are invested.

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

16 \* Sec. 24. AS 39.45.030(b) is repealed.

*Repeals unnecessary language due to change in Deferred Comp. section.*

17 \* Sec. 25. TRANSITION. All litigation, hearings, investigations, and other proceedings pending  
 18 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,  
 19 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal  
 20 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended  
 21 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise  
 22 modified under the provisions of this Act. All contracts, rights, liabilities, and obligations created by  
 23 or under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 30 of  
 24 this Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other  
 25 property of agencies of the state whose functions are transferred under this Act shall be transferred  
 26 commensurate with the provisions of this Act.

27 \* Sec. 26. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by  
 28 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue, of the board  
 29 of trustees of the Alaska State Pension Investment Board shall be as follows:

30           (1) one member elected from the public employees' retirement system and one appointed  
 31 member shall serve terms of four years;

*Disclosure Requirements  
 DOR to adopt regs re: conflict*

*Failure to comply with grounds for termination*

*Transition*

*Board Organization*

*Initial terms*

1 (2) one member elected from the teachers' retirement system and one appointed member  
2 shall serve terms of three years;

3 (3) one member elected from the public employees' retirement system and one appointed  
4 member shall serve terms of two years;

5 (4) one member elected from the teachers' retirement system shall serve a one-year term.

6 (b) The board of trustees of the Alaska State Pension Investment Board may hold organizational  
7 meetings as soon as a quorum of the board has been appointed to or selected for the board.

8 \* Sec. 27. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 26 of this  
9 Act take effect July 1, 1992. *July 1, 92 for board organization*

10 \* Sec. 28. Except as provided in sec. 27 of this Act, this Act takes effect on the earlier of July 1,  
11 1993, or the date established by resolution of the board of trustees of the Alaska State Pension  
12 Investment Board for the transfer to it of securities and assets of all the funds of the retirement systems,  
13 as defined in AS 37.10.390, enacted by sec. 1 of this Act, and the receipts of the employee benefits  
14 program established under AS 39.30.150 - 39.50.180 and of the deferred compensation programs under  
15 AS 39.45. The board shall promptly provide the revisor of statutes and the lieutenant governor with a  
16 copy of this resolution.

*Sets out the earlier of July 1, 93 or the date  
established by resolution to begin managing  
and investing assets, as well as other duties.*

Offered by Senator Pourchot  
Draft #2

## LETTER OF INTENT

### SB 329

An Act establishing the Alaska State Pension Investment Board; relating to management and investment of state pension funds, receipts of the supplemental employee benefits program, receipts of the deferred compensation program and other state funds; and providing for an effective date.

Acting within the fiduciary responsibility under the Prudent Investor Rule, and provided that, in the judgement of the manager, Purchase/Sale execution and transaction cost are competitive with Non-Alaska affiliated brokers, active managers are encouraged to do business with brokerage firms having offices in Alaska. The managers and index account managers are not required to execute trades with Alaska firms if they are not competitive. All brokerage firms must be members of the New York and American Exchange

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*adopted*

# ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,  
CO-CHAIR



Senator Pat Pourchot

ANCHORAGE  
P.O. BOX 104836  
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JUNEAU  
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(907) 465-3712

TO: Senator Pat Rodey  
State Affairs Committee Chair

FROM: Senator Pat Pourchot *Pat*

RE: SB 329, An Act establishing the Alaska State Pension  
Investment Board.

DATE: January 13, 1992

I would like to request a hearing on SB 329 in the Senate State Affairs Committee.

SB 329, replaces the Commissioner of Revenue as sole fiduciary of the state pension funds with a Board of Trustees. Included in SB 329 are the funds of: Public Employees Retirement System, Teachers Retirement System, Judicial System, Military System, Supplemental Benefits System and the Deferred Compensation Program. These funds are to managed by the Department of Revenue at the direction of the Alaska State Pension Investment Board. The Board's stated purpose is to provide prudent and productive management and investment of state pension funds.

This bill incorporates many of the concepts that were included in Senate Bill 18, which passed both bodies in 1991 and was vetoed by the Governor. Those concepts include board representation of retirement system members, requirements for auditing and reporting and inclusion of the SBS fund. I have worked closely with the Department of Revenue in drafting this new legislation, which we both feel overcomes the previous objections of the Administration.

Attached you will find a Sectional Analysis, a marked-up copy of the bill with explanatory notes in the margin and a chart showing funds and amounts, as well as Board composition.

Please contact Susan Barnett in my office if you have any questions. Thank you for considering my request.

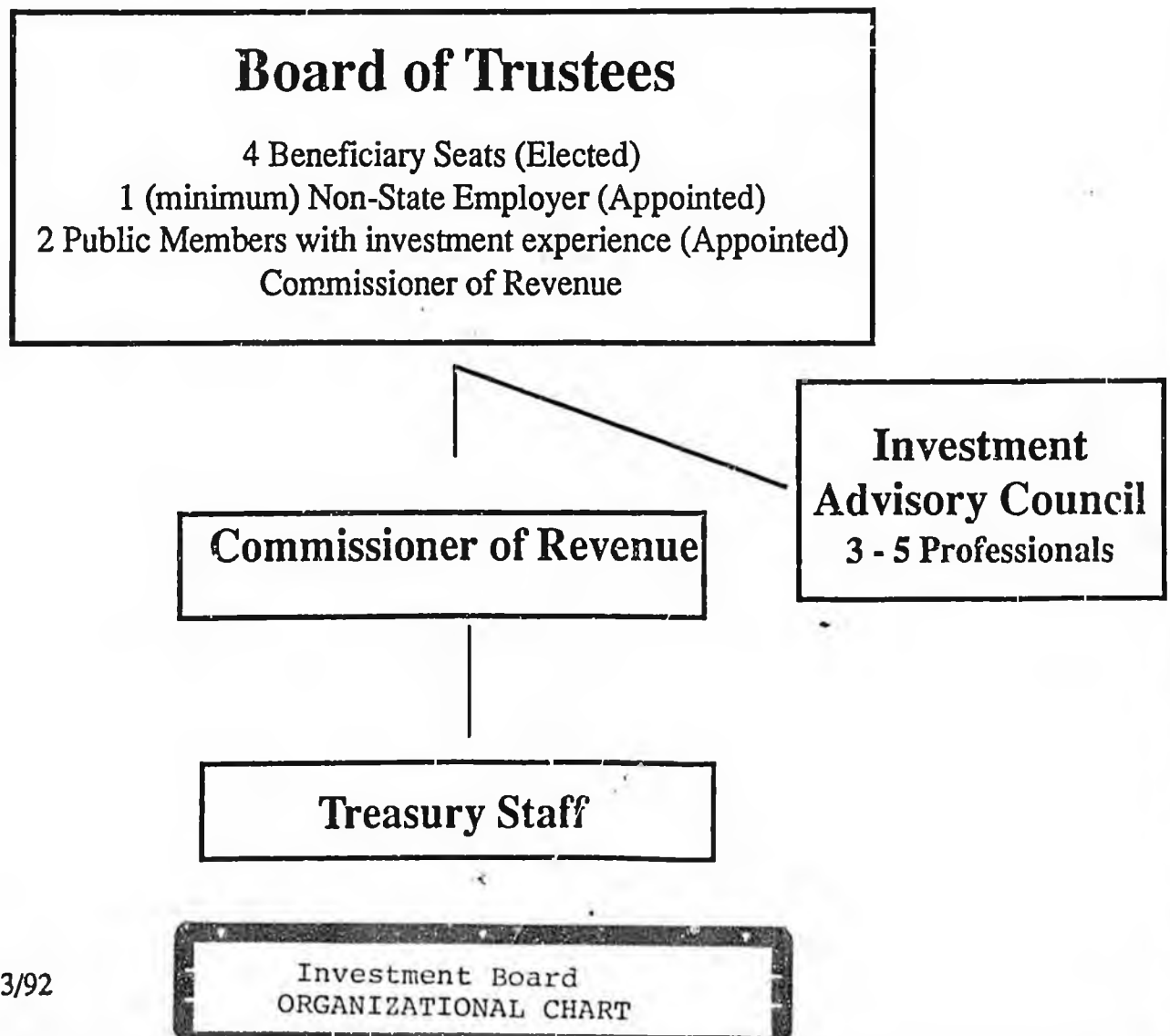
SPONSOR STATEMENT - Pourchot

# Alaska State Pension Investment Board (ASPIB)

## *SB 329, Senator Pourchot*

A Board of Trustees established to manage the following funds:

- Public Employees Retirement System Fund \$3.2 billion
- Teachers Retirement System Fund \$1.90 billion
- Judicial Retirement System Fund \$34.1 million
- Military Retirement Fund \$4.2 million
- Supplemental Benefits System (SBS) \$675 million
- Deferred Compensation \$125 million



January 3, 1992  
sec.txt/Susie

SUBJECT; SB 329: STATE INVESTMENT LEGISLATION

TO; Senator Pat Pourchot

FROM; Susan Barnett, Staff

This legislation establishes a Board of Trustees to manage and invest the following funds: PERS, TRS, Judicial, Military, SBS and Deferred Compensation.

TITLE; An Act establishing the Alaska State Pension Investment Board, hereinafter referred to as the Investment Board; relating to management and investment of state pension funds and other state funds; and providing for an effective date.

SECTION 1: creates the Alaska State Pension Investment Board.

Sec. 37.10.210 (a) establishes the Investment Board and sets the purpose of the Investment Board as providing prudent and productive management and investment of state pension funds and other funds by agreement.

Subsection (b) sets out the eight voting trustees, two of whom are members of and elected by the Public Employees Retirement System (PERS) participants. One of the PERS elected trustees must be a participant in SBS. Two trustees are members of and elected by the Teachers Retirement System (TRS) participants. Nominations may be made by the TRS Board, PERS Board or by petition signed by at least 10 persons eligible to vote in the election. Three public member trustees are appointed by the governor, at least one of whom represents non-State participating employers. All public members shall have business and investment experience. The Commissioner of Revenue also serves as a trustee.

Subsection (c) sets out staggered four year terms for trustees. Subsections (d) and (e) set out removal "for cause" of trustees, each trustee serving at the pleasure of the appointing or electing authority and the filling of a vacancy. The PERS and TRS Boards serve as the "electing" authorities.

Subsections (f)(g)(h) set out Investment Board organization: Board elects chair annually, five trustees constitute a quorum and designees are not allowed. Subsection (i) requires trustees to adopt a policy concerning investment education.

Sec. 37.10.220 sets out the powers and duties of the Investment Board. Subsection (a) provides that the Investment Board shall establish investment policies for the funds for which it is responsible after reviewing recommendations from the advisory council and DOR, submit investment reports to the legislature,

SECTIONAL ANALYSIS  
(SB-329 as introduced)

employers, appropriate boards, departments, contract for external performance reviews, engage independent auditors, review the actuarial earnings assumption every two years and report findings to the appropriate board, select and retain external investment managers and fund custodians and develop and present a budget plan to DOR, OMB and the legislature. Subsection (b) provides that the Investment Board may employ legal counsel, engage outside investment advisors, contract for services necessary to allow the Investment Board to perform its functions, enter into an agreement to assume responsibility for other state funds upon agreement with the Commissioner of the department or the fiduciary responsible for those funds. Subsection (c) sets out that the Investment Board shall annually meet with PERS, TRS boards and the Department of Administration to review benefits administration.

Sec. 37.10.230 (a) (b) set out conflict of interest provisions for the trustees. Under this section, the Investment Board shall adopt regulations to restrict trustees from having a substantial interest in any of the fund assets.

Sec. 37.10.240 exempts the Investment Board from the Administrative Procedures Act but requires the Board to adopt and publish regulations relating to procurement that reflect competitive bidding and to provide public notification. The Investment Board must also comply with the open meetings law. Subsection (e) sets out emergency regulations procedures.

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

Sec. 37.10.260 (a) requires DOR to provide staff for the Investment Board. (b) allows Board to designate a signatory.

Sec. 37.10.270 requires the Investment Board to appoint an investment advisory council composed of at least three and not more than five members who must meet qualifications. Subsection (b) sets out that the members serve at the pleasure of the Investment Board and serve for staggered three year terms. Subsection (c) requires Investment Board to establish compensation for advisory members. Subsection (d) sets out duties of the council to include reviewing investments, recommending investment policy, advising on selection of consultants and auditors. Subsection (e) allows the council to contract with other state agencies to provide advice, with Investment Board approval.

Sec. 37.10.280 requires the Investment Board to ensure that assets held in trust are protected and that insurance must protect the board and state from liability to others and from loss of trustee assets due to acts or omissions of the trustees.

Sec. 37.10.290 exempts the retirement systems and property they own, manage or hold in trust from all taxes and assessments in the state with the exception of municipal taxation on property acquired

through foreclosure or in lieu of foreclosure.

Sec.37.10.300 prohibits the Investment Board from engaging in commercial banking activity, from acting as a depository or trustee for a private person and from acting as a lender to a private person of money from any source other than the money from the state funds under its own management.

Sec. 37.10.310 limits the state's responsibility for liabilities of the Investment Board.

Sec. 37.10.390 defines board, retirement systems. Retirement Systems are: TRS, PERS, Judicial, Military.

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

SECTION 3: requires the TRS board to adopt regulations for the election and removal of trustees to the Investment Board. Note: changes to 14.25.280 alter several other funds. 14.25.280 is considered the standard.

SECTION 4: makes the Investment Board fiduciary of the TRS fund in place of the Commissioner of Revenue and requires the Board to work in the best financial interest of the system's beneficiaries and the retirement plan.

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

SECTION 6: substitutes the Investment Board for the commissioner of revenue in management and investment of the Judicial Retirement Trust.

SECTION 7: substitutes the Investment Board for the commissioner of revenue in management and investment of the Alaska National Guard and Alaska Naval Militia retirement fund, referred to as the Military fund or system.

SECTION 8: specifies that property acquired by the retirement systems through foreclosure or deed in lieu of foreclosure and retained as investment is taxable by municipal entities.

SECTION 9: exempts the retirement systems from various non-judicial actions concerning collection of delinquent taxes but preserves for municipalities a judicial process on foreclosed taxable properties.

SECTIONS 10,11 and 12 exempt the Investment Board from the procurement code but require the Board to adopt comparable

procedures.

SECTION 13 includes the receipts of SBS and Deferred Compensation on the list of funds excluded from the Program Receipts/ General Fund definition.

SECTION 14 substitutes the Investment Board for the Commissioner of Revenue in the section that sets out the current statutes concerning powers and duties of the fiduciary that invests and manages state funds. In paragraph (8) the bill requires accounting records to be kept in accordance with generally accepted accounting principles. Subsection (c) requires the fiduciary to exercise the Prudent Investor Rule in exercising powers and duties. Subsections (d)(e) require the state to defend and indemnify the fiduciary if fiduciary or the fiduciary's designee performed in good faith and was prudent. Subsection (f) defines fiduciary to include trustee, and any other person who exercises control over assets or who gives investment advice to the board.

SECTION 15 is a conforming amendment to correct the Public School Trust Fund (which is not included in the board's responsibility) statutes, to reflect changes made to the TRS statutes.

SECTION 16: identifies the Investment Board as the fiduciary of the receipts of the employee benefits program (SBS). Subsection (b) allows, but does not require, the Investment Board to offer a "participant directed" plan and protects the Board from liability from the individual's exercise of control. Subsection (c) requires the Board to consult with Commissioner of Administration prior to contracting or modifying contracts concerning management of SES. Subsection (d) requires Board to develop a contingency plan for potential investment problems.

SECTION 17: in existing PERS statutes, requires the Investment Board to provide specified information to the commissioner of administration.

SECTION 18; requires the PERS Board to adopt regulations concerning the election and removal of trustees to the Investment Board.

SECTION 19; substitutes the Investment Board for the Commissioner of Revenue as the fiduciary for the PERS fund and references to the requirements set out in the TRS sections.

SECTION 20: allows the PERS member contributions held in the system to be taxed under the changes in Title 29, (Section 8 of this bill) concerning foreclosed property.

SECTIONS 21 and 22; substitute the Investment Board for the commissioner of administration as investor of the deferred compensation funds and gives the Board the same powers and duties in investing Deferred Compensation funds as set out in the TRS statutes. The language is similar to that in Section 16 (SBS) concerning investments, fiduciary responsibility, consultation with

5  
Admin. and contingency planning.

SECTION 23; includes the Investment Board trustees in the conflict of interest statutes.

SECTION 24; amends the duties of the Department of Revenue to reflect the changes made by the bill and the funds for which the Board is responsible for, requires that the department collect, account for, have custody of, invest and manage the funds in accordance with the policies set by the Investment Board.

SECTION 25; allows the commissioner of Revenue to designate employees who are subject to conflict of interest provisions and sets out that failure to comply is grounds for termination.

SECTION 26; repeals definition of "insured" as the language in AS 39.45.030 (b) has been changed from an investment limitation list to the language in Sections 21 and 22 for deferred compensation and the word "insured" no longer appears in either section.

SECTION 27; is a transition section.

SECTION 28; sets out the initial terms of the Investment Board and permits the Board to hold organizational meetings as soon as a quorum has been appointed or elected.

SECTION 29; sets July 1, 1992 as the effective date for Board organization.

SECTION 30; sets the earlier of July 1, 1993 or the date established by resolution of the trustees as the effective date for the Board to begin managing and investing assets as well as other duties as defined in the bill.

*Left Margin  
Explanatory Notes*

SENATE BILL NO. 329

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS POURCHOT, Sturgulewski, Duncan

Introduced:  
Referred:

*FUNDS TO BE MANAGED:  
PERS  
TRS  
Judicial  
Military  
SBS  
Deferred Comp.*

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska State Pension Investment Board; relating to management  
2 and investment of state pension funds, receipts of the supplemental employee benefits  
3 program, receipts of the deferred compensation program, and other state funds; and  
4 providing for an effective date."

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

6 \* Section 1. AS 37.10 is amended by adding new sections to read:

ARTICLE 5. ALASKA STATE PENSION INVESTMENT BOARD.

7 *- Public Funds*  
8 *Establishes Board  
8 in the Public  
Funds statutes*  
9 Sec. 37.10.210. ALASKA STATE PENSION INVESTMENT BOARD. (a) There is

10 established the Alaska State Pension Investment Board in the Department of Revenue. The  
11 purpose of the board is to provide prudent and productive management and investment of state  
12 pension funds and of other state funds upon agreement with the commissioner of the department  
13 or the fiduciary responsible for the fund.

14 (b) The board consists of eight trustees. Two of the trustees shall be elected by the  
members of the public employees' retirement system from the membership of the system.

*10 Purpose of  
11 the Board.*  
*13 8 Trustees  
14 (4 elected  
4 appointed)*

Board Comp:

② PERS  
2 (1 must be SBS)

3

② TRS

6

③ Gov's Appointees  
(at least one must be a non-state employer)

7

8

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Appointee qualifications

① Comm. of Rev.  
12 4 year staggered terms.

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Removal of appointees by Gov.

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Removal of electors by TRS Boards.

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Nominations may be made by the Public Employees' Retirement Board or by petition signed by at least 10 persons eligible to vote in the election. One of the trustees elected from the membership of the public employees' retirement system must be a participant in the supplemental employee benefits program established under AS 39.30.150 - 39.30.180. Two of the trustees shall be elected by the members of the teachers' retirement system from the membership of the system. Nominations may be made by the Teachers' Retirement Board or by petition signed by at least 10 persons eligible to vote in the election. The governor shall appoint three trustees. At least one of the appointed trustees must represent employers, other than the state, who participate in one of the retirement systems. The appointed trustees must have business and investment experience. The commissioner of revenue serves as a trustee.

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

(d) The governor may, by written notice to the trustee, remove an appointed trustee for cause. The Public Employees' Retirement Board may, by written notice to the trustee, remove a member elected from the membership of that retirement system for cause. The Teachers' Retirement Board may, by written notice to the trustee, remove a member elected from the membership of that retirement system for cause. After a trustee receives written notice of removal, the trustee may not participate in board business and may not be counted for purposes of establishing a quorum.

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

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

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

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

(i) The board shall adopt a policy concerning investment education for trustees.

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

Subsection (a) 1-9 are shall

The Board shall:

- 1 meetings (1) hold regular and special meetings at the call of the chair or of at least four
- 2 members;
- 3 *Set investment policies* (2) establish investment policies for the funds for which it is responsible after
- 4 *review of Advisory Council*
- 5 *SDOR recs.* reviewing recommendations from the investment advisory council and the Department of Revenue;
- 6 Reports to LBAr (3) submit long-range and quarterly investment reports to the Legislative Budget
- 7 and Audit Committee;
- 8 Reports to Gov, (4) report to the governor, the legislature, and employers participating in the
- 9 *legislature and employers* retirement systems by the first day of each regular legislative session concerning the investment
- 10 of funds for which the board is responsible, including financial and investment policies
- 11 established by the board, and enclose a summary of the most recent performance evaluations of
- 12 the funds managed by the board;
- 13 *External Evaluation* (5) contract with external performance evaluators to review the performance of
- 14 *Performance to Boards* each fund for which the board is responsible and report each year on the fund's condition to the
- 15 board of trustees and to the other appropriate boards;
- 16 *Independent* (6) engage independent certified public accountants to perform an annual audit
- 17 *Audit* of each of the funds for which the board is responsible and to report to the board with the results
- 18 of the audit;
- 19 *Review expected* (7) review the actuarial earnings assumption for each fund for which the board
- 20 *rate of return" every 2 years and report to Boards (PERS/TES)* is responsible every two years and report its findings and recommendations to the appropriate
- 21 board or agency;
- 22 *After reviewing* (8) after reviewing the recommendations from the Department of Revenue and
- 23 *council and staff recs. retain managers and custodians* the advisory council, select and retain the external investment managers and custodians for the
- 24 *select* funds managed by the board;
- 25 *Develop and* (9) develop an annual operating budget plan and present it to the Department of
- 26 *present budget to DOR, OMB, Legis.* Revenue, the office of management and budget, and the legislature.
- 27 Subsections (b) (b) The board may
- 28 *1-5 are MAY*
- 29 *employ outside* (1) employ outside investment advisors to review investment policies and make
- 30 *advisors* recommendations to the board;
- 31 *legal counsel* (2) employ legal counsel;
- 32 *contract for services* (3) contract for services necessary to carry out its powers and duties;

*other state funds*

(4) enter into an agreement with the commissioner of the department or the fiduciary responsible for another state fund to assume fiduciary or management responsibilities for investing the other state fund;

*Necessary acts*

(5) do all acts necessary to carry out the powers expressly granted or necessarily implied in this chapter.

*7 Directed  
Coordinating  
8 Dept. of  
and appropriate  
9 boards to  
review benefit  
10 administration*

(c) The board shall meet annually, either jointly or separately, with the Public Employees' Retirement Board, the Teachers' Retirement Board, and the Department of Administration to review benefit administration of each of the retirement systems and of the employee benefits program established under AS 39.30.150 - 39.30.180 and the deferred compensation program under AS 39.45. The Department of Administration and each retirement board shall report to the investment board on benefit administration and other issues for that retirement system or program that may affect the investment and management of the fund.

*13 Board representative  
in budget process*

(d) The chair of the board shall appoint a trustee to present the board's position to legislative committees when the committees are considering the board's operating budget. The board is otherwise subject to AS 37.07.

*17 CONFLICT  
OF INTEREST*

Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions of AS 39.50.

*19 provisions  
for  
trustees*

(b) If a trustee acquires, owns, or controls an interest, direct or indirect, in an entity or project in which assets under the control of the board are invested, the trustee shall immediately disclose the interest to the board. The disclosure is a matter of public record and shall be included in the minutes of the board meeting next following the disclosure. The board shall

*22 Disclosures  
23 requirements*

adopt regulations to restrict trustees from having a substantial interest in an entity or project in which assets under the control of the board are invested.

*Adopt conflict  
of interest Regs.  
25 Board may adopt  
to implement this  
bill. 26 Exempt  
from A.P.A., must  
27 comply with  
28 open  
29 meetings.*

Sec. 37.10.240. REGULATIONS AND OPEN MEETINGS. (a) The board may adopt regulations to implement AS 37.10.210 - 37.10.390. Regulations adopted by the board are not subject to the Administrative Procedure Act (AS 44.62). The board shall adopt regulations required by AS 36.30.015(f) relating to procurement. The board shall comply with the requirements of AS 44.62.310 - 44.62.312.  
*↳ State Procurement code - See Section 10 of this bill.  
↳ Open Meetings Statutes.*

(b) Notwithstanding (a) of this section, a regulation adopted under AS 37.10.210 - 37.10.390 shall be published in the Alaska Administrative Register and Alaska Administrative Code for informational purposes. A regulation adopted under this section shall conform to the

*31 Regs must  
conform and  
must be  
published.  
SB 329*

Regulations cont...

1 style and format requirements of the drafting manual for administrative regulations that is  
2 published under AS 44.62.050.

3 *30 day notice* (c) At least 30 days before the adoption, amendment, or repeal of a regulation under this  
4 chapter, the board shall provide notice of the action that is being considered. The notice must  
5 include publication in one or more newspapers of general circulation in each judicial district of  
6 the state.

7 *30 day effective date* (d) A regulation adopted under this chapter takes effect 30 days after adoption by the  
8 board unless a later effective date is stated in the regulation.

9 *emergency regulations* (e) Notwithstanding the other provisions of this section, a regulation may be adopted,  
10 amended, or repealed, effective immediately, as an emergency regulation. For an emergency  
11 regulation to be effective the board must find that the immediate adoption, amendment, or repeal  
12 of the regulation is necessary. The board shall, within 10 days after adoption of an emergency  
13 regulation, give notice of the adoption under (c) of this section. An emergency regulation  
14 adopted under this subsection may not remain in effect past the date of the next regular meeting  
15 of the board unless the board complies with the procedures set out in this section and adopts the  
16 regulation as a permanent regulation.

17 *Standard Regulation Definition* (f) In this section, "regulation" has the meaning given in AS 44.62.640(a).

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

26 *DJR to provide staff to the Board.* Sec. 37.10.260. STAFF. (a) The Department of Revenue shall provide staff for the  
27 board.

28 *Signature* (b) The board may designate a trustee or an officer or employee of the Department of  
29 Revenue to be responsible for signing on behalf of the board a deed, contract, or other document  
30 that must be executed by or on behalf of the board.

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

*Investment Advisory Council  
mw=3  
max=5*

1 an investment advisory council composed of at least three and not more than five members.  
2 Members of the council shall possess experience and expertise in financial investments and  
3 management of investment portfolios for public, corporate, or union pension benefit funds,  
4 foundations, or endowments.

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

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

10 (d) The council shall  
11 (1) review the investments made by the board;  
12 (2) make recommendations to the board concerning the board's investment  
13 policies, investment strategy, and investment procedures;  
14 (3) advise the board on selection of performance consultants and on the form and  
15 content of annual reports;  
16 (4) provide other advice as requested by the board.

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

19 Sec. 37.10.280. INSURANCE. The board shall ensure that trusted assets and its own  
20 assets and services are protected. The board may purchase insurance or provide for self-  
21 insurance retention in amounts recommended by the commissioner of revenue and approved by  
22 the board to cover the acts, including fiduciary acts, errors, and omissions of its board members  
23 and agents. Insurance must protect the board and the state from liability to others and from loss  
24 of trusted assets due to the acts or omissions of the trustees.

25 Sec. 37.10.290. EXEMPTION FROM TAXATION. Except as provided in  
26 AS 29.45.030(a) for property acquired through foreclosure or deed in lieu of foreclosure, the  
27 board and all properties at any time owned by it, managed by it, or held by it in trust, and the  
28 income from those activities, are exempt from all taxes and assessments in the state. All security  
29 instruments issued by the board and income from them are exempt from all taxes and  
30 assessments in the state, including transfer taxes.

31 Sec. 37.10.300. LIMITATIONS. The board may not engage in commercial banking

*Council  
Qualifications*

*3 year terms*

*Compensation*

*Council  
Powers; Duties*

*May contract  
with other state  
agencies*

*INSURANCE:  
Protection  
of  
Assets*

*Previous  
exemption from  
taxation  
except  
for  
foreclosed  
properties.*

*Board limitations*

1 activity or private trust activity. The board may not act as a depository or trustee for a private  
2 person, association, or corporation. The board may not act as a lender to a private person,  
3 association, or corporation of money from any source except state funds under management by  
4 the board.

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Limits the  
states a  
for Board responsibility  
liability

5 Sec. 37.10.310. LIABILITY. A liability incurred by the board shall be satisfied  
6 exclusively from the trust assets or trust revenue, and a creditor or other person may not have  
7 a right of action against the state because of a debt, obligation, or liability of the board.

8 Sec. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context  
9 otherwise requires,

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Definitions

10 (1) "board" means the board of trustees of the Alaska State Pension Investment  
11 Board;

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

15 \* Sec. 2. AS 14.25.035(d) is amended to read:

16 TRS

16 (d) The commissioner of administration shall report to the board concerning the condition  
17 and administration of the system. The reports shall be distributed to the members of the system.

18 The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE] shall provide  
19 reports to the board on the condition and investment performance of the teachers' retirement trust  
20 fund including a summary of an annual external performance review.

replaces  
with Board  
reporting

21 \* Sec. 3. AS 14.25.035 is amended by adding a new subsection to read:

22 (j) The board shall adopt regulations for the election of trustees to the Alaska State  
23 Pension Investment Board and for removal from the investment board of trustees elected from  
24 the system.

TRS Board to  
adopt  
election and  
trustees

25 \* Sec. 4. AS 14.25.180 is amended to read:

26 TRS

26 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The Alaska  
27 State Pension Investment Board [COMMISSIONER OF REVENUE] is the [TREASURER OF  
28 THE SYSTEM AND THE] fiduciary of the fund. In managing the fund, the Alaska State  
29 Pension Investment Board [COMMISSIONER OF REVENUE] shall

Replaces  
with Board  
fiduciary  
existing  
statute

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

1 (2) determine the appropriate investment objectives for the fund;  
2 (3) establish investment policies aimed at achieving the objectives; and  
3 (4) act only in regard to the best financial interests of the system's plan and  
4 beneficiaries.

5 (b) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
6 may invest the fund on the basis of probable total rate of return without regard to the distinction  
7 between principal and income or to the generation of income.

8 (c) In carrying out investment duties under this chapter, the Alaska State Pension  
9 Investment Board [COMMISSIONER OF REVENUE] has the same powers and duties in regard  
10 to the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard  
11 of prudence that the board [COMMISSIONER] must obey under AS 37.10.071(c) shall be in  
12 regard to the management of large trust investments rather than large investments.

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

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

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

24 *Judicial Retirement System* (c) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
25 is the [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same  
26 powers and duties under this section in regard to the judicial retirement trust fund as are provided  
27 in AS 14.25.180. *(TRs statute)*

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

29 *Military Retirement System* (c) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
30 is the [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same  
31 powers and duties under this section in regard to the fund as are provided under AS 14.25.180.  
*↳ (TRs statute)*