

(2) seven trustees appointed by the governor who meet the eligibility requirements for an Alaska permanent fund dividend and who are professionally credentialed or have recognized competence in investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis as follows:

(A) two trustees who are members of the general public; the trustees appointed under this subparagraph may not hold another state office, position, or employment and may not be members or beneficiaries of a retirement system managed by the board;

(B) one trustee who is employed as a finance officer for a political subdivision participating in either the public employees' retirement system or the teachers' retirement system;

(C) two trustees who are members of the public employees' retirement system, selected from a list of four nominees submitted from among the public employees' retirement system bargaining units;

(D) two trustees who are members of the teachers' retirement system selected from a list of four nominees submitted from among the teachers' retirement system bargaining units;

(E) the lists of the nominees shall be submitted to the governor under (C) and (D) of this paragraph within the time period specified in regulations adopted under [AS 37.10.240](#) (a).

(c) The trustees, other than the two commissioners, shall serve for staggered terms of four years and may be reappointed to the board.

(d) The governor may, by written notice to the trustee, remove an appointed trustee for cause. After an appointed 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. 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) Five trustees constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

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

(h) The board shall provide annual training to its members on the duties and powers of a fiduciary of a state fund and other training as necessary to keep the members of the board educated about pension management and investment.

(i) The board shall elect a trustee to serve as chair and a trustee to serve as vice-chair for one-year terms. A trustee may be reelected to serve additional terms as chair or vice-chair.

Sec. 37.10.215. Attorney general.

The attorney general is the legal counsel for the board and shall advise the board and represent it in a legal proceeding.

Sec. 37.10.220. Powers and duties of the board.

(a) The board shall

(1) hold regular and special meetings at the call of the chair or of at least five members; meetings are open to the public, and the board shall keep a full record of all its proceedings;

(2) after reviewing recommendations from the Department of Revenue, adopt investment policies for each of the funds entrusted to the board;

(3) determine the appropriate investment objectives for the defined benefit plans established under the teachers' retirement system under AS 14.25 and the public employees' retirement system under AS 39.35;

(4) assist in prescribing the policies for the proper operation of the systems and take other actions necessary to carry out the intent and purpose of the systems in accordance with [AS 37.10.210](#) - 37.10.390;

(5) provide a range of investment options and establish the rules by which participants can direct their investments among those options with respect to accounts established under

(A) [AS 14.25.340](#) - 14.25.350 (teachers' retirement system defined contribution individual accounts);

(B) [AS 39.30.150](#) - 39.30.180 (State of Alaska Supplementary Annuity Plan);

(C) [AS 39.35.730](#) - 39.35.750 (public employees' retirement system defined contribution individual accounts); and

(D) [AS 39.45.010](#) - 39.45.060 (public employees' deferred compensation program);

(6) establish the rate of interest that shall be annually credited to each member's individual contribution account in accordance with AS 14.25.145 and [AS 39.35.100](#) and the rate of interest that shall be annually credited to each member's account in the health reimbursement arrangement plan under [AS 39.30.300](#) - 39.30.495; the rate of interest shall be adopted on the basis of the probable effective rate of interest on a long-term basis, and the rate may be changed from time to time;

(7) adopt a contribution surcharge as necessary under AS 39.35.160(c);

(8) coordinate with the retirement system administrator to have an annual actuarial valuation of each retirement system prepared to determine system assets, accrued liabilities, and funding ratios and to certify to the appropriate budgetary authority of each employer in the system

(A) an appropriate contribution rate for normal costs; and

(B) an appropriate contribution rate for liquidating any past service liability;

(9) review actuarial assumptions prepared and certified by a member of the American Academy of Actuaries and conduct experience analyses of the retirement systems not less than once every four years, except for health cost assumptions, which shall be reviewed annually; the results of all actuarial assumptions prepared under this paragraph shall be reviewed and certified by a second member of the American Academy of Actuaries before presentation to the board;

(10) contract for an independent audit of the state's actuary not less than once every four years;

(11) contract for an independent audit of the state's performance consultant not less than once every four years;

(12) obtain an external performance review to evaluate the investment policies of each fund entrusted to the board and report the results of the review to the appropriate fund fiduciary;

(13) by the first day of each regular legislative session, report to the governor, the legislature, and the individual employers participating in the state's retirement systems on the financial condition of the systems in regard to

(A) the valuation of trust fund assets and liabilities;

(B) current investment policies adopted by the board;

(C) a summary of assets held in trust listed by the categories of investment;

(D) the income and expenditures for the previous fiscal year;

(E) the return projections for the next calendar year;

(F) one-year, three-year, five-year, and 10-year investment performance for each of the funds entrusted to the board; and

(G) other statistical data necessary for a proper understanding of the financial status of the systems;

(14) submit quarterly updates of the investment performance reports to the Legislative Budget and Audit Committee; and

(15) develop an annual operating budget.

(b) The board may

(1) employ outside investment advisors to review investment policies;

(2) enter into an agreement with the fiduciary of another state fund in order to assume the management and investment of those assets;

(3) contract for other services necessary to execute the board's powers and duties;

(4) enter into confidentiality agreements that would exempt records from [AS 40.25.110](#) and 40.25.120 if the records contain information that could affect the value of investment by the board or that could impair the ability of the board to acquire, maintain, or dispose of investments.

(c) Expenses for the board and the operations of the board shall be paid from the retirement fund.

Sec. 37.10.230. Conflicts of interest.

(a) Trustees are subject to the provisions of AS 39.50.

(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 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.

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.

(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 style and format requirements of the drafting manual for administrative regulations that is published under [AS 44.62.050](#).

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

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

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

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

Sec. 37.10.250. Compensation of trustees.

Trustees, other than trustees who are employees of the state, a political subdivision of the state, or a school district or regional educational attendance area in the state, receive an honorarium of \$400 for each day spent at a meeting of the board or at a meeting of a subcommittee of the board or at a public meeting as a representative of the board, including a day in which a trustee travels to or from a meeting. Trustees who are state employees are entitled to administrative leave for service as a trustee. Trustees who are employees of a political subdivision of the state or a school district or regional educational attendance area in the state are entitled to leave benefits provided by their employers comparable to those provided to state employees for service as a trustee. Trustees are entitled to per diem and travel expenses authorized for boards and commissions under [AS 39.20.180](#).

Sec. 37.10.260. Staff.

(a) The Department of Revenue shall provide staff for the board.

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

Sec. 37.10.270. Investment advisory council.

(a) The board may appoint an investment advisory council composed of at least three and not more than five members. 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.

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

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

(d) The council shall

(1) review the investments made by the board;

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

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

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

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

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 in amounts recommended by the commissioner of revenue and approved by the board to cover 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 due to the acts or omissions of the trustees.

Sec. 37.10.290. Exemption from taxation.

Except as provided in [AS 29.45.030](#) (a) for property acquired through foreclosure or deed in lieu of foreclosure, the board and all properties at any time owned by it, managed by it,

or held by it in trust, and the income from those activities, are exempt from all taxes and assessments in the state. All security instruments issued by the board and income from them are exempt from all taxes and assessments in the state, including transfer taxes.

Sec. 37.10.300. Limitations.

The board may not engage in commercial banking activity or private trust activity. The board may not act as a depository or trustee for a private person, association, or corporation. The board may not act as a lender to a private person, association, or corporation of money from any source except state funds under management by 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 Retirement Management Board;

(2) "fund" means the fund or funds composed of the assets of each of the retirement systems administered and managed by the board;

(3) "recognized competence" means a minimum of 10 years' professional experience working or teaching in the field of investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis;

(4) "retirement systems" or "systems" means the teachers' retirement system, the judicial retirement system, the Alaska National Guard and Alaska Naval Militia retirement system, the public employees' retirement system, the State of Alaska Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan, and the elected public officers' retirement system under former AS 39.37.

Article 03. INVESTMENT AND DEPOSIT OF STATE FUNDS

Sec. 37.10.065. Investment of the Alaska Permanent Fund. [Repealed, Sec. 10 ch 18 SLA 1980. For current law see AS 37.13].

Repealed or Renumbered

Sec. 37.10.070. Investment of residual money.

(a) The commissioner shall invest, as set out in [AS 37.10.071](#), the money in the state treasury above an amount sufficient to meet immediate expenditure needs. In managing the invested assets, the commissioner shall

(1) consider the status of the assets and liabilities on both a current and a probable future basis;

(2) determine the appropriate investment objectives;

(3) establish investment policies to achieve the objectives; and

(4) act only in regard to the best financial interests of the state.

(b) The commissioner may invest on the basis of probable total rate of return without regard to the distinction between principal and income and without regard to the generation of income.

(c) In this section, "commissioner" means the commissioner of revenue.

Sec. 37.10.071. Investment powers and duties.

(a) In making investments under this section, the fiduciary of a state fund 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 considers necessary or proper in administering the assets;

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

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

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

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

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

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

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

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

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

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

(9) declare records to be confidential and exempt from [AS 40.25.110](#) and 40.25.120 if the records contain information that discloses the particulars of the business or the affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

(c) In exercising investment, custodial, or depository powers or duties under this section, the fiduciary of a state fund shall apply the prudent investor rule and exercise the fiduciary duty in the sole financial best interest of the fund entrusted to the fiduciary. Among beneficiaries of a fund, the fiduciaries shall treat beneficiaries with impartiality.

(d) In exercising investment, custodial, or depository powers or duties under this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty that is assigned or delegated under this section, or under [AS 14.40.255](#), 14.40.280(c), 14.40.400(b), AS 37.10.070, [AS 37.14.110](#)(c), 37.14.160, or 37.14.170. However, the fiduciary or the designee is not liable for a breach of a duty that has been delegated to another person if the delegation is prudent under the applicable standard of prudence set out in statute or if the duty is assigned by law to another person, except to the extent that the fiduciary or designee

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

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

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

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

(f) In this section, "fiduciary of a state fund" or "fiduciary" means

(1) the commissioner of revenue for investments under [AS 37.10.070](#);

(2) with respect to the Alaska Retirement Management Board, for investments of the collective funds that it manages and administers,

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

(B) any other person who exercises control or authority with respect to management or disposition of assets for which the board is responsible or who gives investment advice to the board; or

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

Sec. 37.10.075. Deposit of state funds.

(a) When the commissioner of revenue determines that there are funds in the state treasury that are not being used for the purposes provided for in [AS 37.10.070](#), they may be deposited in financial institutions. Collateral may be required by the commissioner to secure state deposits provided for under this section.

(b) The commissioner of revenue may require the banks in which state funds are deposited under a time deposit agreement to pay at least a minimum interest rate to be fixed by the Department of Revenue, and this interest when paid shall be deposited in the general fund or in the other funds that are established by law.

(c) This section does not prohibit the Department of Revenue from depositing the funds that it considers necessary for the proper conduct of the office in solvent banks outside the state under the terms and conditions provided in this section.

(d) The Department of Revenue may deposit funds in banks inside or outside the state without requiring those banks in which the funds are deposited to pay interest on the deposits. It is the intention of the legislature that the department may compensate the banks for handling state disbursements in a manner determined by the commissioner of revenue to be in the best interests of the state.

(e) Banks holding state deposits shall, as a condition of retaining those deposits, submit all information concerning the deposits and other relevant matters that may be requested by the commissioner.

Sec. 37.10.078. Prohibited deposits and investments in certain banks.

The commissioner of revenue may not make investments or deposits with a bank doing business in Alaska that has a general practice of

- (1) charging a fee for handling disbursements issued by the state; or
- (2) refusing to handle disbursements issued by the state.