

32ND ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

Sponsor Statement for House Bill 57

HB 57 codifies the funds sources subject to the sweep provision outlined in art. IX, sec. 17 (d) of the Constitution of Alaska by defining “available for appropriation” and “general fund.” Clear and concise statutory definitions of these terms are essential since a fund source must meet both of these standards to be subject to the sweep.

The initial legislative attempt to define this term occurred in 1994¹ and the section of law dealing with the term “available for appropriation”² was found to be broadly unconstitutional by Alaska Supreme Court in the case *Hickel v. Cowper*.³ This decision provides a clear framework for determining what funds must be “available for appropriation” in the view of the court and *Hickel v. Cowper* is used as a basis for the definition created in HB 57. This legislation is the first attempt to correct this unconstitutional statute in 27 years.

HB 57 also aims to define “general fund” in a way that clarifies which fund types are excluded from the general fund and formally addresses which funds within the general fund cannot be swept. This definition makes clear that the general fund does not include monies such as the Power Cost Equalization (PCE, held by a corporation) or Earnings Reserve Account (ERA, an account of the permanent fund).

This new definition of “general fund” provides a remedy to the confusion that currently arises about what the “general fund” truly is. The term “general fund” takes on different meanings depending on whether the budgeting process is being discussed or the organization of funds in the state treasury is being referenced and depending. It also varies significantly based on which legislative or executive branch agency’s view is being considered.

In the summer of 2019, this lack of agreement came to a head when the Office of Management and Budget subjectively added funds to the list of those subject to the sweep and the Attorney General provided legal analysis suggesting that the PCE fund was in fact considered “general fund.”⁴ This caused consternation. HB 57 creates a unified legal view of the term “general fund,” thereby protecting the balances of various self-sustaining funds (like the PCE) and eliminating the ability of future administrations to alter interpretation of the general fund’s composition so significantly.

¹ [House Bill 58](#) (Chapter 5, SLA 1994)

² [AS 37.10.420](#)

³ *Hickel v Cowper*, 874 P. 2d at 922 (Alaska 1994)

⁴ “[Office of Management and Budget: Overview and Impact of the CBR Sweep](#),” Alaska State Legislature, Senate Finance Committee (July 18, 2019)