

Section 2. State University. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

This article is the expression of the will of the people of this state that there shall be an institution of higher learning within the scope of the constitutional mandate providing for public education. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

The University of Alaska is a constitutional corporation. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Inherent power to sue and be sued in own name. — As a constitutional corporation, owing its existence not to the legislature but to a charter from the ultimate sovereign, the will of the people of this state, the basic corporate power to sue and be sued in its own name would inhere in the University of Alaska regardless of the legislature's declaration. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Art. VII, § 3

CONSTITUTION OF ALASKA

Art. VII, § 3

University is state instrumentality. — In its constitutional status the University of Alaska stands as the single governmental entity which was specifically created by the people to meet the statewide need for a public institution of higher education. In this light, the University must be regarded as uniquely an instrumentality of the state itself. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Despite the degree of constitutional as well as statutory autonomy the University of Alaska clearly possesses, it must be considered to be an integral part of the state educational system mandated by the constitution. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Statutes governing suits against state are applicable to university. — The University of Alaska constitutes in function and character such an arm or instrumentality of the state as to bring it within the scope of those statutes which govern the conditional waiver of sovereign immunity in this state. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

The University of Alaska is an integral part of the state government and an instrumentality of the state in performing its educational function. This being so, former AS 09.50.290, which provided that a suit against the state should be tried by the court without a jury, was applicable. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

And university's corporate status does not militate against this conclusion. — The corporate status of the University of Alaska under the Alaska Constitution does not militate against the conclusion of the supreme court that the university falls within the ambit of the language of AS 09.50.250 through AS 09.50.300 which governs suits against the

Section 3. Board of Regents of University. The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

Art. VII, § 4

ALASKA STATUTES

Art. VII, § 5

Membership on the Board of Regents by a governor, legislator or judge offends the prohibition against dual office holding. December 27, 1976, Op. Att'y Gen.

The University of Alaska is an instrumentality of the state, and membership on its Board of Regents is necessarily an office under the state. December 27, 1976, Op. Att'y Gen.

Similarity to other state executive agencies for budgeting purposes. — The University of Alaska is similar in all or most respects to other state executive agencies for purposes of budgeting and accounting; it does not have any peculiar status by virtue of being constitutionally established. February 28, 1977, Op. Att'y Gen.

The university's budget can be made subject to line item appropriations by

the legislature to the same extent that the budget for the rest of the executive branch of government is subject to line item appropriations. February 28, 1977, Op. Att'y Gen.

The legislature can make appropriations to the university using different budget units than those requested by the board of regents to the same extent that it can make appropriations for executive branch activities using different budget units than those requested by the governor. February 28, 1977, Op. Att'y Gen.

Applied in *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Quoted in *University of Alaska v. Chauvin*, Sup. Ct. Op. No. 1033 (File No. 1991), 521 P.2d 1234 (1974).

State of Alaska. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

The University of Alaska cannot be allocated among the 17 (now 15) principal state departments now identified under AS 44.15.010. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

The University of Alaska is an instrumentality of the sovereign which enjoys in some limited respects a status which is coequal rather than subordinate to that of the executive or the legislative arms of government. Therefore, it is not necessarily subject to such allocation under AS 44.15.010. *University of Alas. v. National Aircraft Leasing, Ltd.*, Sup. Ct. Op. No. 1158 (File No. 2365), 536 P.2d 121 (1975).

Similarity to other state executive agencies for budgeting purposes. — The University of Alaska is similar in all or most respects to other state executive agencies for purposes of budgeting and accounting; it does not have any peculiar status by virtue of being constitutionally established. February 28, 1977, Op. Att'y Gen.

The university's budget can be made subject to line item appropriations by the legislature to the same extent that the budget for the rest of the executive branch of government is subject to line item appropriations. February 28, 1977, Op. Att'y Gen.

The legislature can make appropriations to the university using different budget units than those requested by the board of regents to the same extent that it can make appropriations for executive branch activities using different budget units than those requested by the governor. February 28, 1977, Op. Att'y Gen.

Quoted in *University of Alaska v. Chauvin*, Sup. Ct. Op. No. 1033 (File No. 1991), 521 P.2d 1234 (1974).

STATEMENT

The Constitution of the State of Alaska, Article VII, established the University of Alaska as the State University. Since the University of Alaska is a state institution and thus an arm, agency or political subdivision of the State of Alaska, no special certificate or letter is required. However, we refer you to Section 170 of the internal Revenue Code which provides donors to educational institutions, such as the University of Alaska, authorization to claim as income tax deductions any contributions given such institutions.

Contributions to other education institutions such as those covered in Sections 501, 501(a) and 501(c) (3) of the Code, may well require specific clearance in the form of a certificate, a letter, or a registration number. Information obtained from the District Director of Internal Revenue indicates that formal documents are not normally provided to demonstrate exemption of agencies of federal, state or local governments nor to institutions of higher education organized within the same.



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