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Wallace/Martin
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CS FOR HOUSE BILL NO. 245(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FOURTH SPECIAL SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Alaska Permanent Fund Corporation, the earnings of the Alaska permanent fund, and the earnings reserve account; relating to management of the budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) by the Alaska Permanent Fund Corporation; relating to procurement by the Alaska Permanent Fund Corporation; relating to the mental health trust fund; relating to deposits into the dividend fund; relating to the calculation of permanent fund dividends; relating to unrestricted state revenue available for appropriation; and providing for an effective date."

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

*** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature that the legislature

reevaluate the use of earnings of the Alaska permanent fund, as prescribed under this Act, in three years.

*** Sec. 2.** AS 36.30.015 is amended by adding a new subsection to read:

(*l*) The board of trustees of the Alaska Permanent Fund Corporation shall adopt regulations to govern the procurement of supplies, services, and professional services. The regulations must be similar to the procedures described in this chapter and in regulations adopted under this chapter. Notwithstanding any other provisions of this subsection, the Alaska Permanent Fund Corporation shall comply with the five percent preference under AS 36.30.321(a) and the requirement that contracts for legal services be approved by the attorney general under (d) of this section.

*** Sec. 3.** AS 36.30.990(1) is amended to read:

(1) "agency"

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

(B) does not include

(i) the University of Alaska;

(ii) the Alaska Railroad Corporation;

(iii) the Alaska Housing Finance Corporation;

(iv) a regional Native housing authority created under AS 18.55.996 or a regional electrical authority created under AS 18.57.020;

(v) the Department of Transportation and Public Facilities, in regard to the repair, maintenance, and reconstruction of vessels, docking facilities, and passenger and vehicle transfer facilities of the Alaska marine highway system;

(vi) the Alaska Aerospace Corporation;

(vii) the Alaska Retirement Management Board;

(viii) the Alaska Seafood Marketing Institute;

(ix) the Alaska children's trust and the Alaska

Children's Trust Board;

(x) the Alaska Industrial Development and Export Authority;

(xi) the Alaska Permanent Fund Corporation;

*** Sec. 4.** AS 37.10.430(a) is amended to read:

(a) The **Alaska Permanent Fund Corporation shall manage and invest the assets of** [DEPARTMENT OF REVENUE MAY TRANSFER MANAGEMENT RESPONSIBILITY OVER ALL OR A PORTION OF] the budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) **in the manner set out for the management and investment of the assets of the Alaska permanent fund under AS 37.13.120** [TO THE ALASKA PERMANENT FUND CORPORATION].

*** Sec. 5.** AS 37.10.430(b) is amended to read:

(b) By March 15 of each year, the **Alaska Permanent Fund Corporation** [DEPARTMENT OF REVENUE] shall [, AFTER CONSULTING WITH THE ALASKA PERMANENT FUND CORPORATION,] prepare a report setting out the balance in the budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) on **July 1** [JANUARY 1] and on **June 30** [DECEMBER 31] of the previous **fiscal** [CALENDAR] year. The report shall state the nominal, real, and realized return on the budget reserve fund compared to the nominal, real, and realized return on the permanent fund and the general fund during the previous **fiscal** [CALENDAR] year.

*** Sec. 6.** AS 37.13.010(a) is amended to read:

(a) Under art. IX, sec. 15, of the state constitution, there is established as a separate fund the Alaska permanent fund. The Alaska permanent fund consists of

(1) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments received by the state from mineral leases [ISSUED ON OR BEFORE DECEMBER 1, 1979,] and 25 percent of all bonuses received by the state from mineral leases [ISSUED ON OR BEFORE FEBRUARY 15, 1980;

(2) 50 PERCENT OF ALL MINERAL LEASE RENTALS, ROYALTIES, ROYALTY SALE PROCEEDS, NET PROFIT SHARES UNDER AS 38.05.180(f) AND (g), AND FEDERAL MINERAL REVENUE SHARING

PAYMENTS RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED AFTER DECEMBER 1, 1979, AND 50 PERCENT OF ALL BONUSES RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED AFTER FEBRUARY 15, 1980]; and

(2) [(3)] any other money appropriated to or otherwise allocated by law or former law to the Alaska permanent fund.

*** Sec. 7.** AS 37.13.140 is amended to read:

Sec. 37.13.140. Income. Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. **The corporation shall determine the net** [NET] income of the fund [SHALL BE COMPUTED ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR] in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. [INCOME AVAILABLE FOR DISTRIBUTION EQUALS 21 PERCENT OF THE NET INCOME OF THE FUND FOR THE LAST FIVE FISCAL YEARS, INCLUDING THE FISCAL YEAR JUST ENDED, BUT MAY NOT EXCEED NET INCOME OF THE FUND FOR THE FISCAL YEAR JUST ENDED PLUS THE BALANCE IN THE EARNINGS RESERVE ACCOUNT DESCRIBED IN AS 37.13.145.]

*** Sec. 8.** AS 37.13.140 is amended by adding new subsections to read:

(b) The corporation shall determine the amount available for distribution each year. The amount available for distribution equals five and one-quarter percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "the average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

(c) In accordance with AS 37.13.146(a)(1), 20 percent of the amount available for distribution under (b) of this section shall be reserved for dividends. The remainder of the amount available for distribution under (b) of this section shall be reduced by

the difference between the amount calculated under (1) of this subsection and the amount under (2) of this subsection if the amount calculated under (1) of this subsection exceeds the amount under (2) of this subsection:

(1) the total amount of oil and gas production taxes under AS 43.55.011 - 43.55.180, mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments and bonuses received by the state from mineral leases that are deposited into the general fund in the current fiscal year, less the amount under AS 37.13.146(a)(2);

(2) the sum of $1,200,000,000.

*** Sec. 9.** AS 37.13.145(d) is amended to read:

(d) **Income** [NOTWITHSTANDING (b) OF THIS SECTION, INCOME] earned on money awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution [TO THE DIVIDEND FUND OR FOR TRANSFERS TO THE PRINCIPAL] under **AS 37.13.140(b) and** (c) [OF THIS SECTION], and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

*** Sec. 10.** AS 37.13.145 is amended by adding new subsections to read:

(e) Each year the legislature may appropriate from the earnings reserve account to the general fund an amount that does not exceed the amount available for distribution under AS 37.13.140(b) and (c).

(f) Each year the legislature may appropriate from the earnings reserve account to the principal of the fund an amount by which the balance of the earnings reserve account exceeds the amount available for distribution under AS 37.13.140(b) multiplied by four, less the amount appropriated under (e) of this section.

*** Sec. 11.** AS 37.13 is amended by adding new sections to read:

Sec. 37.13.146. Appropriations to the dividend fund. (a) The legislature may appropriate to the dividend fund established in AS 43.23.045 the following amounts

from the general fund:

(1) 20 percent of the amount calculated under AS 37.13.140(b); and

(2) an amount equal to 20 percent of the money deposited in the general fund during the fiscal year just ended from all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), federal mineral revenue sharing payments, and bonuses received by the state from mineral leases.

(b) Nothing in this section creates a dedicated fund.

Sec. 37.13.148. Appropriation of revenue. (a) If the unrestricted state revenue available for appropriation in the preceding fiscal year exceeds the unrestricted general fund appropriations made for the same fiscal year, the legislature may appropriate the amount of unrestricted state revenue in excess of unrestricted general fund appropriations as follows:

(1) 50 percent to the Alaska permanent fund (art. IX, sec. 15, Constitution of the State of Alaska); and

(2) 50 percent to the budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska).

(b) In this section, "unrestricted state revenue" does not include the balance or earnings of the earnings reserve account established under AS 37.13.145(a).

*** Sec. 12.** AS 37.13.206(a) is amended to read:

(a) The board may adopt regulations to carry out the purposes of this chapter and shall adopt regulations under **AS 36.30.015(*l*) and** AS 37.13.120(a). The provisions of AS 44.62 (Administrative Procedure Act) regarding the adoption of regulations do not apply to regulations of the corporation.

*** Sec. 13.** AS 37.13.300(c) is amended to read:

(c) Net income from the mental health trust fund may not be included in the computation of [NET] income available for distribution under **AS 37.13.140(b)** [AS 37.13.140].

*** Sec. 14.** AS 43.23.025(a) is amended to read:

(a) By October 1 of each year, the commissioner shall determine the value of each permanent fund dividend for that year by

(1) determining the total amount available for dividend payments,

which equals

(A) the amount **appropriated** [OF INCOME OF THE ALASKA PERMANENT FUND TRANSFERRED] to the dividend fund under **AS 37.13.146** [AS 37.13.145(b)] during the current year;

(B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);

(C) less the amount necessary to pay prior year dividends from the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and 43.23.055(3) and (7);

(D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;

(E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.075;

(2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

(3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection.

*** Sec. 15.** AS 43.23.025 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, the amount of each permanent fund dividend for fiscal years 2017, 2018, and 2019 shall be $1,000.

*** Sec. 16.** AS 43.23.045(a) is amended to read:

(a) The dividend fund is established as a separate fund in the state treasury. **The fund consists of money appropriated to it under AS 37.13.146.** The dividend fund shall be administered by the commissioner and shall be invested by the commissioner in the same manner as provided in AS 37.10.070.

*** Sec. 17.** AS 43.23.055 is amended to read:

Sec. 43.23.055. Duties of the department. The department shall

(1) annually pay permanent fund dividends from the dividend fund**,** **without further appropriation**;

(2) subject to AS 43.23.011 and paragraph (8) of this section, adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for claiming a permanent fund dividend; the department shall determine the number of eligible applicants by October 1 of the year for which the dividend is declared and pay the dividends by December 31 of that year;

(3) adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual;

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends;

(5) use a list of individuals ineligible for a dividend under AS 43.23.005(d) provided annually by the Department of Corrections and the Department of Public Safety to determine the number and identity of those individuals;

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

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

(8) adopt regulations that establish procedures for an individual to apply to have a dividend disbursement under AS 37.25.050(a)(2) reissued if it is not collected within two years after the date of its issuance; however, the department may not establish a time limit within which an application to have a disbursement reissued must be filed;

(9) provide any information, upon request, contained in permanent

fund dividend records to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law; if the information is contained in an electronic data base, the department shall provide the requesting agency with either

(A) access to the data base; or

(B) a copy of the information in the data base and a statement certifying its contents;

(10) establish a fraud investigation unit for the purpose of assisting the

(A) Department of Law in the prosecution of individuals who apply for or obtain a permanent fund dividend in violation of a provision in AS 11, by detecting and investigating those crimes; and

(B) commissioner to detect and investigate the claiming or paying of permanent fund dividends that should not have been claimed by or paid to an individual and to impose the penalties and enforcement provisions under AS 43.23.035.

*** Sec. 18.** AS 37.10.430(c); AS 37.13.145(b), and 37.13.145(c) are repealed.

*** Sec. 19.** AS 43.23.025(c) is repealed June 30, 2020.

*** Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. The commissioner of revenue and the Alaska Permanent Fund Corporation may adopt regulations, policies, and procedures necessary to implement this Act. The regulations, policies, or procedures may not take effect before the effective date of the law implemented by the regulation, policy, or procedure.

*** Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. If secs. 6 - 11 and 13 - 18 of this Act take effect after July 1, 2016, secs. 6 - 11 and 13 - 18 of this Act are retroactive to July 1, 2016.

*** Sec. 22.** Sections 2, 3, 12, 20, and 21 of this Act take effect immediately under AS 01.10.070(c).

*** Sec. 23.** Except as provided in sec. 22 of this Act, this Act takes effect July 1, 2016.