

# History of the Permanent Fund and the Payment of Dividends

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# Statehood Act and Mineral Rights

- ▶ Section 6(i) of the Statehood Act – “All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the express conditions that **all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all of the minerals in the lands** so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same.”
- ▶ Current day land ownership in Alaska – Alaska Natives and ANCSA corporations own approximately 13 percent of Alaska lands, **the State owns approximately 26 percent**, and the federal government owns approximately 60 percent, **with less than one percent of Alaska lands owned by private owners.**

# Permanent Fund Constitutional Amendment: Timeline

- ▶ 1969: Prudhoe Bay Oil and Gas lease sale brought in \$900 million to the State of Alaska
- ▶ Early 1970's: \$900 million is spent on capital projects and programs
- ▶ 1974: Construction of the Trans-Alaska pipeline begins
- ▶ 1975: Gov. Hammond vetoes legislation (HB 324) that sought to place a portion of royalties into a permanent savings fund because Alaska's Constitution prohibits dedicating state revenues to a specific purpose
- ▶ 1976: Gov. Hammond introduces a proposed constitutional amendment to permit the saving of a portion of royalties through the creation of a permanent fund
- ▶ 1976: Legislature passes House Joint Resolution 39 to place permanent fund constitutional amendment on the general election ballot
- ▶ November 2, 1976: Permanent Fund constitutional amendment (Proposition 2) is approved by the voters 75,588 to 38,518

# 1976 Proposed Permanent Fund Constitutional Amendment: Ballot Summary presented to the voters

- ▶ "This proposal, if approved, would amend the Constitution of the State of Alaska by amending Article IX, Section 7 (Dedicated Funds) and adding a new Section to Article IX (Section 15, Alaska Permanent Fund). It would establish a constitutional permanent fund into which at least 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State would be paid. The principal of the fund would be used only for income-producing investments permitted by law and the income from the fund would be deposited in the general fund of the State and be available to be appropriated for expenditure by the State unless otherwise provided by law."

# 1976 Permanent Fund Amendment adopted by the voters: Article IX, Section 15

- ▶ "At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law."

# Permanent Fund Dividend: Timeline

- ▶ 1980: First permanent fund dividend law enacted (ch. 21, SLA 1980)
- ▶ June 14, 1982: United States Supreme Court in *Zobel v. Williams*, 457 U.S. 55 (1982) rules the dividend law violates the United States Constitution's equal protection clause
- ▶ 1982: Current dividend program enacted into law (ch. 102, SLA 1982)

# First Permanent Fund Dividend: The 1980 Dividend Formula

- ▶ "Under the plan, each citizen 18 years of age or older receives one dividend unit for each year of residency subsequent to 1959, the first year of statehood. The statute fixed the value of each dividend unit at \$50 for the 1979 fiscal year; a one-year resident thus would receive one unit, or \$50, while a resident of Alaska since it became a State in 1959 would receive 21 units, or \$1,050. The value of a dividend unit will vary each year depending on the income of the Permanent Fund and the amount of that income the State allocates for other purposes." *Zobel v. Williams*, 457 U.S. 55, 57 (1982).

# First Permanent Fund Dividend: The 1980 Dividend Fund

- ▶ "Each year the commissioner [of the Department of Revenue] shall transfer to the dividend fund 50 percent of the income of the Alaska permanent fund which was earned during the fiscal year ending on June 30 of the preceding year and which is available for distribution under AS 37.13.140." Former AS 43.23.050(b) (1980).



# First Permanent Fund Dividend: Found Unconstitutional

- ▶ No dividends are paid as law is immediately challenged on constitutional grounds
- ▶ Supreme Court in *Zobel v. Williams* declares the law to violate equal protection because the State did not have a valid basis to pay different dividends to Alaskans based on the length of their state residency

# The Current Dividend Formula

- ▶ "The general structure for Permanent Fund dividends is largely the same today as it was 35 years ago; dividends are paid to eligible Alaska residents following a statutorily structured three-step formula.
  - First, APFC calculates the '[i]ncome available for distribution,' defined as 21% of the net income of both the Permanent Fund and the earnings reserve 'for the last five fiscal years.'
  - Second, 50% of the 'income available for distribution' is transferred by APFC from the earnings reserve to a dividend fund, a separate state treasury account administered by the Department of Revenue (DOR).
  - Finally, DOR 'determine[s] the value of each permanent fund dividend for that year by' dividing the amount available in the dividend fund by 'the number of individuals eligible to receive a dividend payment.'" (Wielechowski v. State, 403 P.3d 1141, 1144-45 (Alaska 2017)).

# Alaska Permanent Fund Statutes

# PFD Annual Timeline

## **January 1 – March 31:**

During this time, the division is accepting applications for the PFD. The division is also reviewing the accessibility and usability of the current year application, for the purpose of necessity of changes to future application. The division reviews public feedback and common areas of confusion for application users. The feedback is entered into a spreadsheet by division technicians. Reminder e-mails are often sent during this time to those individuals who have historically filed online and have not yet filed by mid to late February.

## **April 1 – August 31:**

Garnishment season opens on April 1<sup>st</sup>. This is extremely important in our timeline as this is a competitive process for garnishing agencies. There is a priority order that must be followed. Please see Appendix A.

During this time frame, most of the eligibility determinations are made by the division. In total, to the division is able to process roughly 70 percent of all applications , without manual intervention (requesting more information, notification of missing signature pages, paper application). The remaining 200,000(ish) applications require some kind of communication between the division and the applicant. This is the timeframe when a majority of that work is accomplished, with a performance goal of determining 85 percent of all applications by September 15 of each year.

Historically, APFC would move over a portion of the PFD funds in early July, leaving the remaining to stay invested until closer to the payout date (typically moved in August). In 2018, the Permanent Fund Dividend division's operating budget was included in the funds that APFC moved over. Only the amount for the operating budget was transferred in July, with the amount necessary for paying out the 2018 PFD transferred in early September. In order for the PFD to be distributed the first week of October, the division must request the funds from APFC no later than the final week of August, allowing a few days for funds to be transferred. AS 43.23.055(2) requires that the number of applicants be determined by October 1<sup>st</sup>, and the full payments be sent out by December 31<sup>st</sup>.

# PFD Annual Timeline

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## **September 1 – December 31:**

This is considered payment season. Across the state, agencies are participating in the processes that allow payment to occur. Prior to October's payment, we are testing the payment process, acclimating the warrant stock in preparation for printing, determining staffing needs from Finance to audit warrants, alerting banks of anticipated funds going to the banks, and ensuring that other state programs involved in cash management are all "on call" the moment that the payment heads out the door. Once the distribution is made, a lot of staff time goes into assisting individuals tracking down their payment, explaining why the distributed amount is different than the full amount (garnishments, charitable contributions, etc.) After the initial distribution, additional distributions are made every third Thursday of each month for individuals, whose applications required additional work to determine eligibility of the individual.

# Agency Deadlines

## **Appeals:**

If an individual is determined to be ineligible, they are sent a letter informing the applicant of the determination and an informal appeal form. This form is due 30 days from the date of the determination along with a \$25.00 appeal fee or the poverty waiver noted. The fee is returned if the appeal is overturned.

## **Application:**

Applications are due by March 31 every year. There are exceptions for filing a late application. The exceptions are as follows:

- a) an individual is determined “disabled” on March 31 of the filing year by a health care professional;
- b) an individual is an active duty member of the armed forces of the United States and eligible for hostile fire or imminent danger pay on March 31 of the filing year; or
- c) if the family of a deceased Alaskan resident applies for the deceased individual’s PFD.

All three of the exceptions allow a 1 -year filing extension.

## **Missed Child Applications:**

If a parent/sponsor of an Alaskan child does not file an application for the child, the child may file a “Prior Year” application for any missed applications. This must occur between their 18<sup>th</sup> and 20<sup>th</sup> birthdays. Once that time period has passed, this is no longer an option.

# Allowable Absences

## 15 AAC 23.163/ AS 43.23.008

- ▶ College: A student may still qualify for the PFD if they are attending secondary or postsecondary education on a full-time basis where participation requires absence from AK. They must not claim residency in the location of the school.
- ▶ Active duty military
- ▶ United States merchant marine
- ▶ Receiving continuous medical treatment or convalescing
- ▶ Providing care for parent, spouse, sibling, child, or stepchild with a critical life-threatening illness
- ▶ Providing care for individual's terminally ill family member
- ▶ Settling the estate of the individual's deceased parent, spouse, sibling, child or stepchild, not to exceed 220 cumulative days.
- ▶ Serving as member of United States Congress
- ▶ Staff member of United States Congress
- ▶ Employee of the State of Alaska in a field office or other location
- ▶ Volunteer in the federal peace corps program
- ▶ Training or competing as a member of the US Olympics Team or a US national team for an Olympic sport
- ▶ Student fellowship sponsored by US Department of Education or by the US Department of State

# Most common absences

Roughly 40,000 individuals per year claim absences. Absences are claimed on roughly 6% of all applications.

1. Vacation up to 180 days (45% of all absences)
2. Post Secondary Education (16% of all absences)
3. Accompanying an Eligible Resident (15% of all absences)
4. Armed Forces (11% of all absences)
5. Medical Treatment (3% of all absences)



**Overview of the 2015 Dividend Calculation**

To help smooth out year-to-year volatility in dividend amounts, the amount of each year's dividend is calculated using a formula that averages the Permanent Fund's realized earnings over the previous five years. Here is how it works:

<b>1.</b>	<b>Add the Fund's statutory net income* from the previous five years.</b>		
		<i>(in millions/rounded)</i>	
	FY 2011	2,143	
	FY 2012	1,568	
	FY 2013	2,928	
	FY 2014	3,531	
	FY 2015	2,907	
	<b>Total</b>	<b>13,077</b>	
<b>2.</b>	<b>Multiply by statutory 21% for an average of the five year earnings</b>	<b>13,077</b>	
		<b>21%</b>	
		<b>\$2,746</b>	
<b>3.</b>	<b>Divide in half for the statutory percentage of earnings allocated for dividends</b>	<b>\$2,746</b>	
		<b>2</b>	
		<b>\$1,373.1</b>	
<b>4.</b>	<b>Add FY 2013 Permanent Fund Dividend Fund beginning balance</b>	<b>\$1,373.1</b>	
		<b>11.6</b>	
		<b>\$1,384.7</b>	
<b>5.</b>	<b>Subtract prior year obligations, designated state expenses and cost of operating the Permanent Fund Dividend Division</b>	<b>\$1,384.7</b>	
		<b>(48.3)</b>	
		<b>\$1,336.4</b>	
<b>6.</b>	<b>Subtract reserves for payment of prior year dividends</b>	<b>\$1,336.4</b>	
		<b>(0.9)</b>	
		<b>\$1,335.5</b>	
<b>7.</b>	<b>Divide by the estimated number of eligible dividend applicants</b>		
		<b>\$1,335,500,000/644,511=\$2072.00</b>	<small>(rounded to nearest whole dollar)</small>

# Statutory Net Income Calculation

In order to provide a real example, I would like to show the 2015 calculation.

This was the last time the calculation was used to determine the amount of the PFD.

# Common Misconceptions regarding the PFD

**Myth****Reality**

PFDs are paid one time a year

Alaskans are paid when they become eligible, beginning with the initial distribution in October. Eligibility and payment does occur throughout the year, for a variety of reasons.

You have a “once in a lifetime get out of jail free” card if you forget to file.

If you file, and are able to provide an explanation and evidence that goes beyond “forgetting,”, the division may allow an individual the ability to re-apply once.

PFDs are determined based on the number of years you've lived in Alaska.

The division determines eligibility each and every year. The length of time that you've lived in Alaska has little to no weight on your current year eligibility.

The PFD is a required program.

The PFD is a voluntary program. The division is seeing PFD eligibility being required for various “state residency” requirements, leaving individuals to believe that it is not a voluntary program. We are working with agencies when we hear of this situation.

An individual PFD check will go to one person or agency.

One PFD can be paid to many agencies due to garnishments, charitable giving, and assignments. There is no limit.

If a court orders you to apply, you will be eligible.

Many courts have started requiring individuals to apply, however many of these individuals fail to comply with follow-up requests for information. Just because a court orders an individual to apply for the program does not mean that individuals complete the process nor that the individual will be eligible.

Much of Alaska struggles with accessibility to the internet and online filing.

PFD statistics show that, at the most, there are 36,000 individuals who may struggle with online filing due to being homebound, or without internet services. Only ONE community in Alaska is 100% without internet. Annually, the agency still receives 120,000 paper applications.

It is “near impossible” to qualify for a PFD.

We deny, on average, 40,000 applications each year. This is roughly 6% of all applicants.

Tons of PFDs are heading out of the state, leaving less for actual Alaskans.

Last year, we paid 7,390 individuals who claimed an “out of state” physical address. This amounts to 1% of all PFDs paid.

## The Alaska Supreme Court's decision in *Wielechowski v. State*, 403 P.3d 1141 (Alaska 2017)

- ▶ The legislature in 2016 appropriated the amount authorized by statute (AS 37.13.145(b)) for transfer from the earnings reserve account to the dividend fund for the payment of dividends
- ▶ On June 28, 2016, Governor Walker exercised his veto power to reduce the appropriation for the payment of permanent fund dividends
- ▶ Three plaintiffs filed suit contending that the veto was unlawful and the dividend must be paid according to the statutory formula
- ▶ The Alaska Supreme Court upholds the veto declaring that:
  - "Absent another constitutional amendment, the Permanent Fund dividend program must compete for annual legislative funding just as other state programs." (*Wielechowski v. State*, 403 P.3d at 1144-45).