

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON MILITARY AND  
VETERANS' AFFAIRS**

April 6, 2004  
2:05 p.m.

**MEMBERS PRESENT**

Representative Nick Stepovich, Chair  
Representative Beverly Masek, Vice Chair  
Representative Nancy Dahlstrom  
Representative Bob Lynn  
Representative Sharon Cissna  
Representative Max Gruenberg

**MEMBERS ABSENT**

Representative Bruce Weyhrauch

**COMMITTEE CALENDAR**

HOUSE BILL NO. 536

"An Act relating to applications for permanent fund dividends by certain individuals serving in the armed forces; and providing for an effective date."

- MOVED CSHB 536(MLV) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 536

SHORT TITLE: PFUND APPLICATION DEADLINES FOR MILITARY

SPONSOR(S): RULES BY REQUEST OF ECON DEV, INT TRADE & TOURISM

03/15/04	(H)	READ THE FIRST TIME - REFERRALS
03/15/04	(H)	MLV, STA
04/06/04	(H)	MLV AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

REPRESENTATIVE CHERYLL HEINZE

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Spoke as the chair of the House Special Committee on Economic Development, International Trade and Tourism, which requested introduction of HB 536.

JOHN BITTNER, Staff  
to Representative Cheryll Heinze  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 536, answered questions.

SHARON BARTON, Director  
Permanent Fund Dividend Division  
Department of Revenue  
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 536, answered questions.

VERN RAUCHENSTEIN  
Talkeetna, Alaska

POSITION STATEMENT: Testifying as the father of Christopher Rauchenstein, related his son's situation, which was the impetus for HB 536.

#### **ACTION NARRATIVE**

#### **TAPE 04-4, SIDE A**

Number 0001

**CHAIR NICK STEPOVICH** called the House Special Committee on Military and Veterans' Affairs meeting to order at 2:05 p.m. Representatives Stepovich, Masek, Dahlstrom, Lynn, Cissna, and Gruenberg were present at the call to order.

#### HB 536-PFUND APPLICATION DEADLINES FOR MILITARY

CHAIR STEPOVICH announced that the only order of business would be HOUSE BILL NO. 536, "An Act relating to applications for permanent fund dividends by certain individuals serving in the armed forces; and providing for an effective date."

Number 0111

REPRESENTATIVE MASEK moved to adopt CSHB 536, Version 23-LS1796\B, Cook, 4/6/04, as the working document. There being no objection, Version B was before the committee.

Number 0171

REPRESENTATIVE CHERYLL HEINZE, Alaska State Legislature, spoke as the chair of the House Special Committee on Economic

Development, International Trade and Tourism, which requested the legislation of the House Rules Standing Committee, explained that HB 536 was drafted in response to letters and calls that she received from some of the brave men and women who were serving in the recent wars of Afghanistan and Iraq. Due to the unpredictable nature of communications in a war zone, some of the men and women serving in the armed forces overseas weren't able to file their permanent fund dividend (PFD) application. Therefore, those applicants were denied. Representative Heinze said, "They should not be punished for doing their duty [for] their country." This legislation addresses the problem by providing members of the armed services 90 days after the individual is out of harms way to apply for the permanent fund dividend. The legislation also applies retroactively to members of the armed services who served in 2003 and 2004. If members of the armed services who served in 2003 and 2004 were eligible for hostile fire or imminent danger pay during the application period for either year, those individuals will have 90 days after passage of HB 536 to apply for those dividends. She concluded, "All of us as Alaskans and Americans owe a debt of gratitude to the brave and selfless men and women who work day and night to ensure that our great nation stays great and free."

REPRESENTATIVE HEINZE said this legislation "comes from the heart." She informed the committee that there is a family in Talkeetna, which consists of eight children. One of the children, Christopher Rauchenstein, became the first Marine to march into Baghdad. Christopher's PFD application didn't arrive before he was sent to war, and therefore he was denied his PFD. Representative Heinze opined that such is a travesty. Although the director of the Permanent Fund Dividend Division agreed, she pointed out that the change has to be made in statute. Therefore, this lead to approaching the military to obtain a definition of "war", which proved to be difficult. However, it became apparent that those who are eligible for hostile fire, imminent danger pay are the individuals for whom this would apply. Representative Heinze closed by asking for the committee's support.

Number 0540

REPRESENTATIVE GRUENBERG recalled his time in Vietnam on a cargo ship when he was in and out of the war zone. He pointed out that he wasn't sure how being in and out of the war zone, but deployed would play out for the final sentences on page 1.

REPRESENTATIVE LYNN recalled his time in Vietnam when, after so many hours in a combat zone, the individual received combat for that month.

REPRESENTATIVE CISSNA inquired as to the number of individuals or situations this legislation would address.

Number 0888

JOHN BITTNER, Staff to Representative Cheryll Heinze, Alaska State Legislature, answered that the number of permanent funds that would be issued under this legislation isn't going to be considered a very significant number. With regard to who receives hostile fire, imminent danger pay, it's a specific definition that says that those in danger of being fired upon or being hurt by land mines and the like will receive [combat] pay. The aforementioned seems to cover those in war zones with no access to communication.

CHAIR STEPOVICH inquired as to what would happen if there was a massive deployment, such as an entire division being deployed to war.

REPRESENTATIVE GRUENBERG pointed out that there might be a situation similar to World War I or World War II in which it could apply to almost everyone. The question is who happens to be in a war zone during the right date.

REPRESENTATIVE LYNN highlighted that those falling under this proposed legislation would be Alaskans who are eligible for the permanent fund if not in the military. Therefore, this legislation wouldn't change the number of people receiving PFDs, rather it changes when the individual may apply.

Number 1124

REPRESENTATIVE DAHLSTROM commented that this is good legislation, and it is similar to HB 287. However, HB 287 refers to "in a time of national military emergency" versus the language of HB 536, which refers to "by certain individuals serving in the armed services". Representative Dahlstrom noted that many active duty military on U.S. soil aren't in a war zone, but may or may not be able to leave their post. She asked if the aforementioned was considered.

REPRESENTATIVE HEINZE replied yes. This legislation merely allows those in a war zone who can't obtain their PFD

application to do so and retroactively [for those in a war zone in 2003 and 2004]. She said she didn't know how the military would view the situation described by Representative Dahlstrom.

MR. BITTNER explained that the legislation was drafted in order to respond to situations involving a lack of communications ability.

REPRESENTATIVE HEINZE informed the committee that she talked with Christopher Rauchenstein's commanding officers and followed his entire route to determine whether he could obtain a computer during that time. It was definitely a war zone in which the main priorities were water and shelter.

REPRESENTATIVE GRUENBERG pointed out that there may be some people who are in covert operations with circumstances as equally difficult as those in the war zone experience who can't physically [submit his or her PFD application]. The difficulty is in the drafting on page 1.

CHAIR STEPOVICH agreed that there could be different scenarios, and this legislation addresses one scenario.

REPRESENTATIVE GRUENBERG turned attention to the language on the top of page 2 of Version B. He suggested providing the commissioner some general guidelines that could allow a waiver of the application date. He highlighted the language on page 2, line 9, which specifies a standard of "reasonable cause", and said that the standard should be higher. The standard should be "extraordinary circumstances that render it impossible for the individual to meet the deadline and allow the commissioner to publish regulations that define that further."

REPRESENTATIVE HEINZE said that she understood what Representative Gruenberg was doing, and had went through the same with the definitions. Ultimately, the judge advocate general (JAG) helped craft this legislation and the language that addressed those who didn't apply on time.

REPRESENTATIVE GRUENBERG clarified that if the language [the last sentence] on [the bottom] of page 1 wasn't present and only the language on [the top] of page 2 was left, it would allow the commissioner discretion. Representative Gruenberg specified that it really isn't a matter of where the individual is located, but rather whether it's impossible because of the individual's duty. "We're seeking a causal connection between

the fact of their duty and the impossibility of meeting the deadline," he said.

CHAIR STEPOVICH interjected his understanding that this legislation utilizes the military criteria, and therefore he questioned how it could be rewritten.

Number 1690

REPRESENTATIVE CISSNA pointed out that those who have missed the deadline are looking for whatever room can be found to submit their PFD application. There is an appeals process in place. She opined that this legislation is creating an opening for a specific group of people who appear to have a certain level of stress as a group. Representative Cissna expressed the need for any changes to go through the group of people who already address this issue in order to avoid opening an entire range of services.

REPRESENTATIVE GRUENBERG noted that the appeals process is within the department, so the use of the term "commissioner" includes the appeal process.

REPRESENTATIVE HEINZE reiterated that the legislation uses the military criteria. She informed the committee that there was discussion with regard to doing this just for the war in Iraq, but then the question becomes what about those in the war in Afghanistan. The intent is to keep it very narrow and address those individuals at war who can't get to a location to file, and therefore it was tied to the military's hostile fire or imminent danger pay.

Number 1900

REPRESENTATIVE LYNN commented that it seems folks are trying to complicate a relatively simple piece of legislation. He related his understanding that the legislation simply relates to when one can apply for a PFD and ties it to the receipt of hostile fire or imminent danger pay. Representative Lynn highlighted that although sometimes it may not be impossible to do something [such as submit a PFD application], it may be impractical. Furthermore, this only applies to individuals who are eligible to apply under the PFD criteria, regardless of the individual's location.

REPRESENTATIVE HEINZE pointed out that the legislation is retroactive to when the war started.

Number 2048

SHARON BARTON, Director, Permanent Fund Dividend Division, Department of Revenue, surmised that the intent of the legislation is to pick up those folks who fall within the intent of the legislation and who may have already applied and denied. Therefore, she suggested inserting, in Section 2, language relating that they may apply or reapply if they have been previously denied. The point of the language is to pick up those folks who have already been denied, who the division wouldn't allow to reapply without such language.

REPRESENTATIVE LYNN moved Ms. Barton's suggestion as a friendly amendment. There being no objection, the amendment was adopted.

MS. BARTON specified that the language would need to be inserted on lines 17 and 19 of page 2.

REPRESENTATIVE MASEK inquired as to Ms. Barton's opinion regarding a possible language change on page 2, line 9, which refers to reasonable cause.

MS. BARTON explained that the division would interpret "reasonable cause" or "extraordinary circumstances" to mean that the conditions prohibited the individual from receiving or getting out the PFD application. Therefore, the language is fine as written, although the language "extraordinary circumstances" would be fine as well, she remarked.

Number 2220

VERN RAUCHENSTEIN, the father of Christopher Rauchenstein, related his son's situation. His son, Christopher, was sent to Iraq as the PFD deadline approached. He characterized going to war as an extraordinary circumstance that should be considered.

CHAIR STEPOVICH remarked that Mr. Rauchenstein should be proud of his son's service to the nation.

Number 2350

REPRESENTATIVE MASEK moved to report CSHB 536, Version 23-LS1796\B, Cook, 4/6/04, [as amended] out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 536(MLV) was reported out of the House Special Committee on Military and Veterans' Affairs.

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 2:40 p.m.