

HOUSE FINANCE COMMITTEE
April 4, 2012
9:18 a.m.

9:18:15 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:18 a.m.

MEMBERS PRESENT

Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Co-Chair
Representative Anna Fairclough, Vice-Chair
Representative Mia Costello
Representative Mike Doogan
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Reggie Joule
Representative Mark Neuman
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Joe Michel, Staff, Representative Bill Stoltze;
Representative Eric Feige, Sponsor; Michael Paschall,
Staff, Representative Eric Feige; Debbie Bitney, Director,
Permanent Fund Dividend Division, Department of Revenue.

SUMMARY

HB 190 PFD ALLOWABLE ABSENCE

HB 190 was HEARD and HELD in Committee for further consideration.

HB 312 NATURAL GAS CONVERSION PROGRAM/FUND

HB 312 was SCHEDULED but not HEARD.

#hb190

HOUSE BILL NO. 190

"An Act relating to the allowable absence for active duty service members of the armed forces for purposes of permanent fund dividend eligibility."

9:18:28 AM

Vice-chair Fairclough MOVED to ADOPT proposed committee substitute for HB 190, Work Draft 27-LS0564\S (Kirsch, 3/28/12).

Co-Chair Stoltze OBJECTED for discussion.

JOE MICHEL, STAFF, REPRESENTATIVE BILL STOLTZE, stated that there was one change in the work draft. He looked at page 1, line 5, which removed Section C. He added that on page 4, line 15, Section C was repealed. He remarked that the members' packets included some statutes that stated the original version of Section C.

Co-Chair Stoltze understood that the removal of Section C made it easier to administer the program. Mr. Michel agreed.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, Work Draft 27-LS0564\S was ADOPTED.

9:20:16 AM

REPRESENTATIVE ERIC FEIGE, SPONSOR, explained the legislation. He stated that the bill ensured that residents of Alaska who decide to serve in the military would receive the PFD throughout their entire time in the military. He stated that, in statute, the "intent to return" had been more clearly defined, and the qualifications of an applicant to satisfy the intent to return to Alaska. Authorized absences were already listed, and there would be no change. He stated that Section 2 outlined what had been previously in regulation, and was now in statute. He stated that Section 3 repealed the "10-year-rule." He explained that after 5 years, tightening of requirements would "knock down" a significant number of applicants. He furthered that after 10 years, there would be a slowly diminishing number of applicants, because of the stricter requirements relating to "the intent to return."

9:24:00 AM

MICHAEL PASCHALL, STAFF, REPRESENTATIVE ERIC FEIGE, provided a presentation titled "Permanent Fund Dividend Allowable Absences" (copy on file). He looked at slide 2, "Allowable Absence 1982."

Sec. 43.23.095. Definitions.

-(7) "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state or, if the individual is not physically present in the state, intends to return to the state and is absent only for any of the following reasons:

- (A) vocational, professional, or other specific education for which a comparable program was not reasonably available in the state;
- (B) secondary or postsecondary education;
- (C) military service;
- (D) medical treatment;
- (E) service in Congress; or
- (F) other reasons which the commissioner may establish by regulation

Mr. Paschall addressed slides 2 and 3, "Allowable Absence 1997."

Sec. 43.23.095. Definitions.

-(8) "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the individual is not physically present in the state, intends to return to the state and remain permanently in the state under the requirements of AS 01.10.055, and is absent only for any of the following reasons:

- (A) vocational, professional, or other specific education for which a comparable program was not reasonably available in the state;
- (B) secondary or postsecondary education;
- (C) military service;
- (D) medical treatment;
- (E) service in Congress;
- (F) other reasons which the commissioner may establish by regulation;
- (G) service in the Peace Corps;

- (H) to care for the individual's terminally ill parent, spouse, sibling, child, or stepchild;
- (I) for up to 220 days to settle the estate of the individual's deceased parent, spouse, sibling, child, or stepchild; or
- (J) to care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex;

Sec. 01.10.055. Residency.

-(a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.

-(b) A person demonstrates the intent required under (a) of this section

- (1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and

- (2) by providing other proof of intent as may be required by law or regulation, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

-(c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state.

Mr. Paschall discussed slides 5 through 10, "Allowable Absence 1998."

Sec. 43.23.095. Definitions.

- (7) "state resident" means an individual who is physically present in the state with the intent to remain indefinitely in the state under the requirements of AS 01.10.055 or, if the individual is not physically present in the state, intends to return to the state and remain indefinitely in the state under the requirements of AS 01.10.055;

Co-Chair Stoltze pointed to a major measure in 1988 requiring the return every two years.

Representative Edgmon remarked that the definition on page 4 was not the only definition in terms of how the agencies apply state residency.

Co-Chair Stoltze noted that there were all kinds of residency requirements for different state programs.

[9:27:12 AM](#)

Mr. Paschall continued with the slides related to allowable absences in 1998.

Sec. 43.23.008. Allowable absences.

- (a) Subject to (b) and (c) of this section, an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent
 - (1) receiving secondary or postsecondary education on a full-time basis;
 - (2) receiving vocational, professional, or other specific education on a full-time basis for which, as determined by the Alaska Commission on Postsecondary Education, a comparable program is not reasonably available in the state;
 - (3) serving on active duty as a member of the armed forces of the United States;
 - (4) receiving continuous medical treatment recommended by a licensed physician or convalescing as recommended by the physician that treated the illness if the treatment or convalescence is not based on a need for climatic change;
 - (5) providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex;
 - (6) providing care for the individual's terminally ill parent, spouse, sibling, child, or stepchild;
 - (7) settling the estate of the individual's deceased parent, spouse, sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

- (8) serving as a member of the United States Congress;
 - (9) serving on the staff of a member from this state of the United States Congress;
 - (10) serving as an employee of the state in a field office or other location;
 - (11) accompanying a minor who is absent under (4) of this subsection;
 - (12) accompanying another eligible resident who is absent for a reason permitted under this subsection as the spouse, minor dependent, or disabled dependent of the eligible resident;
 - (13) for any reason consistent with the individual's intent to remain a state resident, provided the absence or cumulative absences do not exceed
 - (A) 180 days if the individual is not claiming an absence under (1) - (12) of this subsection;
 - (B) 120 days in addition to any absence or cumulative absences claimed under (1) or (2) of this subsection if the individual is not claiming an absence under (3) - (12) of this subsection;
 - or
 - (C) 45 days in addition to any absence or cumulative absences claimed under (1) - (12) of this subsection.
- (b) An individual may not claim an allowable absence under (a)(1) - (12) of this section unless the individual was a resident of the state for at least six consecutive months immediately before leaving the state.
- (c) An otherwise eligible individual who has been eligible for the immediately preceding 10 dividends despite being absent from the state for more than 180 days in each of the related 10 qualifying years is only eligible for the current year dividend if the individual was absent 180 days or less during the qualifying year. This subsection does not apply to an absence under (a)(8) or (9) of this section or to an absence under (a)(12) of this section if the absence is to accompany an individual who is absent under (a)(8) or (9) of this section.

Mr. Paschall discussed slides 11 through 16, "Allowable Absence 2011."

Sec. 43.23.008. Allowable absences.

- (a) Subject to (b) and (c) of this section, an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent
 - (1) receiving secondary or postsecondary education on a full-time basis;
 - (2) receiving vocational, professional, or other specific education on a full-time basis for which, as determined by the Alaska Commission on Postsecondary Education, a comparable program is not reasonably available in the state;
 - (3) serving on active duty as a member of the armed forces of the United States or accompanying, as that individual's spouse, minor dependent, or disabled dependent, an individual who is
 - (A) serving on active duty as a member of the armed forces of the United States; and
 - (B) eligible for a current year dividend;
 - (4) serving under foreign or coastal articles of employment aboard an oceangoing vessel of the United States merchant marine;
 - (5) receiving continuous medical treatment recommended by a licensed physician or convalescing as recommended by the physician who treated the illness if the treatment or convalescence is not based on a need for climatic change;
 - (6) providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex;
 - (7) providing care for the individual's terminally ill family member;
 - (8) settling the estate of the individual's deceased parent, spouse, sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;
 - (9) serving as a member of the United States Congress;
 - (10) serving on the staff of a member from this state of the United States Congress;
 - (11) serving as an employee of the state in a field office or other location;
 - (12) accompanying a minor who is absent under (5) of this subsection;
 - (13) accompanying another eligible resident who is absent for a reason permitted under (1), (2), (5) -

(12), (16), or (17) of this subsection as the spouse, minor dependent, or disabled dependent of the eligible resident;

- (14) serving as a volunteer in the federal peace corps program;

- (15) because of training or competing as a member of the United States Olympic Team;

- (16) participating for educational purposes in a student fellowship sponsored by the United States Department of Education or by the United States Department of State;

- (17) for any reason consistent with the individual's intent to remain a state resident, provided the absence or cumulative absences do not exceed

- (A) 180 days in addition to any absence or cumulative absences claimed under (3) of this subsection if the individual is not claiming an absence under (1), (2), or (4) - (16) of this subsection;

- (B) 120 days in addition to any absence or cumulative absences claimed under (1) - (3) of this subsection if the individual is not claiming an absence under (4) - (16) of this subsection but is claiming an absence under (1) or (2) of this subsection; or

- (C) 45 days in addition to any absence or cumulative absences claimed under (1) - (16) of this subsection if the individual is claiming an absence under (4) - (16) of this subsection.

-(b) An individual may not claim an allowable absence under (a)(1) - (16) of this section unless the individual was a resident of the state for at least six consecutive months immediately before leaving the state.

-(c) An otherwise eligible individual who has been eligible for the immediately preceding 10 dividends despite being absent from the state for more than 180 days in each of the related 10 qualifying years is only eligible for the current year dividend if the individual was absent 180 days or less during the qualifying year. This subsection does not apply to an absence under (a)(9) or (10) of this section or to an absence under (a)(13) of this section if the absence is to accompany an individual

who is absent under (a)(9) or (10) of this section.

- (d) For purposes of (a)(7) of this section, "family member" means a person who is
 - (1) legally related to the individual through marriage or guardianship; or
 - (2) the individual's sibling, parent, grandparent, son, daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin.

Mr. Paschall looked at slide 17, "Allowable Absence after HB 190." He stated that the statute remained that same, except that it was now subject to (b) and (e) instead of (b) and (c).

[9:31:27 AM](#)

Representative Joule wondered how the bill would impact college students that took more than 5 years to graduate, specifically students in a masters or graduate program. Mr. Paschall replied that if a group can prove ties to Alaska, there would be a chance for review.

Co-Chair Thomas wondered whether a person could leave the state for 20 years in active military duty and still receive a check. Mr. Paschall responded that after five years residing outside the state, those individual subject to the criteria that was placed into law, and there active ties to the community.

Co-Chair Thomas felt that a person who owned a home in another state they should not be eligible for a PFD. He did not believe anyone had ever been prosecuted for leaving the state, after they had declared an intent to return to the state.

Co-Chair Stoltze noted that there were people that openly stated their intent, but change their minds.

Representative Gara asked for verification that the bill did not impact people who were out of the state caring for a sick relative. Mr. Paschall believed the bill would apply, and added that there were some absences that did have time limits.

Representative Gara pointed to military and higher education absences. He addressed the total of 30 days in five years. A person could easily move away and come home at Christmas to receive a PFD.

[9:38:03 AM](#)

Mr. Paschall responded that the 30 days was a minimum requirement.

DEBBIE BITNEY, DIRECTOR, PERMANENT FUND DIVIDEND DIVISION, DEPARTMENT OF REVENUE, asked for a repeat of the question.

Representative Gara asked about military and higher education individuals with no intent to move back to Alaska. He also wondered if the 30 day rule was easily abused. Ms. Bitney responded that the 30 day requirement was an initial hurdle; after the person had met the initial requirement, there were additional items that needed to be addressed: whether or not they own property in the state, family here, involved in state politics, etc. It was difficult to prove a person's intent, and these requirements help determine an individual's true intent.

Representative Gara surmised that there was a gray area related to individuals with homes outside of the state.

[9:41:32 AM](#)

Ms. Bitney stated that payment of resident taxes in another state would be an automatic disqualifier. The division looked at the situations very closely. She discussed that many snowbirds owned homes elsewhere, but the division made sure they did not pay resident taxes or benefits.

Co-Chair Stoltze noted that he had many friends in the military, which preferred to purchase a house rather than rent. He wondered if they would be suspect. Ms. Bitney replied in the negative. She furthered that those individuals must maintain that they were not receiving a resident benefit for owning that home.

Representative Gara asked about property taxes, and stated that the taxes were not a resident benefit, but a resident burden. Ms. Bitney replied that the benefit was usually a break in the property tax (e.g. a homestead benefit).

Co-Chair Stoltze wondered what kinds of things typically trigger a review or denial. Ms. Bitney to discuss triggers for a review or denial: registering to vote in another state, receiving a homestead credit on property taxes, declaring in the military records that the state of legal residence is somewhere other than Alaska. She stressed that "intent" was very subjective, so clear criteria was needed to evaluate that intent properly.

Representative Joule asked whether paying state income tax in another state was a trigger. Ms. Bitney replied that it would be a trigger, if the tax return reflected that they were a citizen of that state.

Representative Joule wanted to ensure that students were not falling as victims.

Representative Joule furthered that his daughter had paid a dear price for it, because she had not declared proper residency out of state.

Representative Doogan wondered why the ability to receive the money did not occur until after the person returned to the state.

Co-Chair Stoltze noted that there had been various similar legislative proposals related to student loan forgiveness.

Representative Doogan restated his concern about possible cumulative dividends.

Co-Chair Stoltze noted that a 19 year-old living in Afghanistan may have a problem with that idea.

Ms. Bitney understood, but that was not the legislation that was before the committee.

Representative Guttenberg pointed to page 3, Section 2, and wondered if a person's career choice to serve overseas prevented them from receiving the PFD. Ms. Bitney answered that the bill was not a stand-alone criteria. The bill contained criteria in a weighted decision.

Co-Chair Thomas discussed a situation of a person who had been in the military who received a driving ticket in Colorado with an Alaska driver's license, so Colorado had

forced him to get a local license and the person had lost his PFD as a result.

[9:55:10 AM](#)

Vice-chair Fairclough pointed to page 3, lines 29 through 31. She read from the bill related to future events beyond a person's control. Mr. Paschall deferred to Ms. Bitney.

Co-Chair Stoltze wondered if that provision was an important aspect to the bill. Representative Feige replied that he would like to hear from the department.

Co-Chair Stoltze queried the policy direction. Ms. Britney stated that page 3, lines 29 through 31 addressed part of what the division finds difficult to run the program now. She stressed that every individual's situation was different, and felt that the specific language was not critical to that decision making.

Vice-chair Fairclough felt that if someone could not find a job in Alaska should not be allowed to get part of the dividends. She felt that determining one's PFD qualifications; there were many different factors in making those decisions.

Representative Costello asked about intent to return // she knew of an individual that was a fourth generation Alaskan who was required in California to obtain residency. This requirement was out of his control, so she wondered whether there was a provision that would allow the department to consider granting that individual a PFD. Ms. Bitney responded that the division had a process when a person checked a box that they were a resident in another state. Once the department received the amended return, there was a process.

Representative Costello explained that the specific person had been required to apply as a resident in another state. Ms. Bitney replied that there was an exemption for individuals who were required to file for residency in another state in the department regulation.

Representative Joule wondered if Representative Costello's concern had always been in statute. Ms. Bitney replied that it had been in regulation and the bill proposed to putting it in statute.

[10:03:29 AM](#)

Representative Neuman asked whether a person that was kicked out of the system once could use the provision to get back into the system. Ms. Bitney answered in the negative. She explained that the regulation was worded in a way that the division would allow a person one time to reapply for a dividend that they timely applied for but the division subsequently did not receive; and it was limited to that specific group of people. It did not apply to individuals who did not file.

Representative Guttenberg wondered how the rebuttal worked when a person was denied. Ms. Bitney answered that there were two levels of appeal: (1) informal level of appeal, (2) formal level (after the applicant had been denied a second time). There could be more subjectivity based on the applicant's life circumstances.

Co-Chair Stoltze CLOSED public testimony.

Co-Chair Stoltze discussed his intent to address several issues related to career paths. He asked his staff to work with the division, members, and the sponsor. He hoped to have the bill before the committee in the afternoon.

HB 190 was HEARD and HELD in Committee for further consideration.

#hb312

HOUSE BILL NO. 312

"An Act creating a low-interest loan program for homeowners who convert their homes to natural gas-fired heating; and creating the natural gas home heating conversion loan fund."

HB 312 was SCHEDULED but not HEARD.

Co-Chair Thomas went over the schedule for the afternoon meeting.

#

ADJOURNMENT

[10:11:21 AM](#)

The meeting was adjourned at 10:11 AM.