

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: SCS HB 52(FIN)  
 Fiscal Note Number: 2 \*\*Corrected\*\*  
 (S) Publish Date: 4/10/13

Identifier: HB052SCS(FIN)-DOR-PFD-04-10-13  
 Title: PFD ALLOWABLE ABSENCE  
 Sponsor: FEIGE  
 Requester: (S) Finance

Department: Department of Revenue  
 Appropriation: Taxation and Treasury  
 Allocation: Permanent Fund Dividend Division  
 OMB Component Number: 981

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2014 Request	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>	<b>FY 2014</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
 If yes, by what date are the regulations to be adopted, amended or repealed? 01/01/13

**Why this fiscal note differs from previous version:**

The analysis section has changed for this bill as the CS in Senate Finance expanded the allowable absence in AS 43.23.008(a)(15).

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Division	Permanent Fund Dividend Division	Date:	04/10/2013 02:15 PM
Approved By:	Angela Rodell, Deputy Commissioner - Treasury	Date:	04/10/13
	Department of Revenue		

**Analysis**

The current PFD 5-year rule in regulation has enough of a gray area that ultimately leads to more of these cases going to formal appeal. At the formal level Administrative Law Judges currently look at the regulation surrounding the 30 day cumulative return requirement over 5 years as a "general" guideline but not a hard and fast rule. That kind of uncertainty makes it difficult for the division to clearly set eligibility policy when making determinations for this rule. The proposed changes to this portion of the bill clarifies the 5-year language and moves it into statute so we are able to say there is a bright line when it comes to the 30-day return requirement and can simply deny applicants if they do not meet that criteria. This would likely reduce the number of appeals that reach the formal level and reduce the associated OAH legal costs.

The current 10-year rule in statute allows an applicant to receive a dividend for 10 consecutive years while having allowable absences in excess of 180 days in the qualifying year. An applicant who is still absent for more than 180 days in an 11th consecutive qualifying year is no longer eligible for the dividend and will have to return to the state for at least 180 days to receive the dividend again. This bill repeals this provision, which allows anyone to have consecutive years of absences of more than 180 days in perpetuity. While the division can measure how many denials we have made for the 10-year rule since 2009 when it went into effect, it is difficult for us to forecast the impact that compounding total may have on future eligibility work. Currently the division has had no more than 107 "10-year rule" denials in a dividend year since 2009. If the 10-year rule is repealed, those applicants that previously believed they were ineligible may now decide to apply, which would not be reflected in our current denial numbers.

Based on what we can measure, the division calculates that the operational cost savings created in Appeals by strengthening the 5-year rule will likely be a fiscal offset for the potential work created in Eligibility by eliminating the 10-year rule.

Regulation changes will need to be adopted in order to implement this bill. If the bill is passed with the retroactivity date to 1/1/2013 as written, we will need to change and repeal portions of 15 AAC 23.163.(g) and (h) and apply those changes retroactively to the 1/1/2013 date for the purposes of uniformly applying eligibility.

In amendment #1, adopted on the House floor, only two wording changes were made to phrasing to ensure ambiguity was removed from the bill. Specifically this change -

*Page 3, line 23, following "consider": Insert "all relevant factors, including"*

allows the division to consider all factors when reviewing residency ties and not just the ones listed in the bill. This strengthens the divisions ability to render accurate eligibility decisions, and has no fiscal impact.

This version of the bill makes a change to language of an existing allowable absence.

AS 43.23.008(a)(15) now reads *"because of training or competing as a member of the United States Olympic Team or a United States national team for an Olympic sport;*

The number of individual applicants affected by this additional absence language average between 5 - 10. We still review these applicants every year, but the change will likely allow a few more to receive a dividend if they meet all other requirements of eligibility. Since every case is different, that affect to the dividend fund is indeterminate. There is no additional administrative work for the division, so there is no change in fiscal impact.