

HOUSE BILL NO. 192

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES PRUITT, Thompson, Millett, Chenault, Talerico, Birch, Kopp, Johnston, Knopp

Introduced: 3/22/17

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to procurement by the Alaska Permanent Fund Corporation; relating
2 to an appropriation limit; relating to the budget responsibilities of the governor; relating
3 to the Alaska permanent fund, the earnings of the Alaska permanent fund, and the
4 earnings reserve account; relating to the mental health trust fund; relating to deposits
5 into the dividend fund; relating to the calculation and payment of permanent fund
6 dividends; and providing for an effective date."

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

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

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

11 (1) reevaluate the use of earnings of the Alaska permanent fund, as prescribed
12 under this Act, in three years; and

13 (2) reduce the state operating budget by \$600,000,000 over the next four fiscal

1 years.

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

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

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

11 (1) "agency"

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

16 (B) does not include

17 (i) the University of Alaska;

18 (ii) the Alaska Railroad Corporation;

19 (iii) the Alaska Housing Finance Corporation;

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

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

27 (vi) the Alaska Aerospace Corporation;

28 (vii) the Alaska Retirement Management Board;

29 (viii) the Alaska Seafood Marketing Institute;

30 (ix) the Alaska children's trust and the Alaska
31 Children's Trust Board;

1 (x) the Alaska Industrial Development and Export
2 Authority;

3 **(xi) the Alaska Permanent Fund Corporation;**

4 * **Sec. 4.** AS 37.05.540(a) is amended to read:

5 (a) There is established as a separate fund in the state treasury the budget
6 reserve fund. The budget reserve fund consists of appropriations to the fund.
7 [MONEY RECEIVED BY THE STATE THAT IS SUBJECT TO THE
8 APPROPRIATION LIMIT UNDER (b) OF THIS SECTION AND THAT EXCEEDS
9 THAT LIMIT, MAY BE APPROPRIATED TO THE BUDGET RESERVE FUND.]

10 * **Sec. 5.** AS 37.05 is amended by adding a new section to read:

11 **Sec. 37.05.545. Appropriation limit.** (a) Unrestricted general fund
12 appropriations made for a fiscal year may not exceed \$4,100,000,000 by more than the
13 cumulative change in inflation since July 1, 2016, derived from federal indices. The
14 determination of the change in inflation for purposes of this subsection shall be based
15 on the Consumer Price Index for all urban consumers for Anchorage prepared by the
16 United States Bureau of Labor Statistics.

17 (b) The appropriation limit in (a) of this section does not apply to an
18 appropriation

- 19 (1) to the Alaska permanent fund;
20 (2) for payment of permanent fund dividends;
21 (3) required to pay debt obligations of the state; or
22 (4) for a capital project.

23 (c) In this section,

- 24 (1) "capital project" has the meaning given in AS 37.06.090;
25 (2) "program receipts" has the meaning given in AS 37.05.146;
26 (3) "unrestricted general fund" does not include program receipts or
27 reappropriations.

28 * **Sec. 6.** AS 37.07.020 is amended by adding a new subsection to read:

29 (f) In addition to the budget and bills submitted under (a) of this section and
30 the fiscal plan submitted under (b) of this section, the governor shall submit a report
31 with a calculation of appropriations in the budget prepared under (a) of this section as

1 applied to the appropriation limit under AS 37.05.545.

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

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

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

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

24 (c) In accordance with AS 37.13.146(a), 50 percent of the amount available
 25 for distribution under (b) of this section shall be reserved for dividends. The remainder
 26 of the amount available for distribution under (b) of this section shall be reduced by
 27 the difference between the amount calculated under (1) of this subsection and the
 28 amount under (2) of this subsection if the amount calculated under (1) of this
 29 subsection exceeds the amount under (2) of this subsection:

30 (1) the total amount of oil and gas production taxes under
 31 AS 43.55.011 - 43.55.180, mineral lease rentals, royalties, royalty sale proceeds, net

1 profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing
 2 payments and bonuses received by the state from mineral leases that are deposited into
 3 the general fund in the current fiscal year;

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

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

6 (d) **Income** [NOTWITHSTANDING (b) OF THIS SECTION, INCOME]
 7 earned on money awarded in or received as a result of State v. Amerada Hess, et al.,
 8 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement,
 9 summary judgment, or adjustment to a royalty-in-kind contract that is tied to the
 10 outcome of this case, or interest earned on the money, or on the earnings of the money
 11 shall be treated in the same manner as other income of the Alaska permanent fund,
 12 except that it is not available for distribution [TO THE DIVIDEND FUND OR FOR
 13 TRANSFERS TO THE PRINCIPAL] under **AS 37.13.140(b) and** (c) [OF THIS
 14 SECTION], and shall be annually deposited into the Alaska capital income fund
 15 (AS 37.05.565).

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

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

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

24 * **Sec. 11.** AS 37.13 is amended by adding a new section to read:

25 **Sec. 37.13.146. Appropriations to the dividend fund.** (a) Each year, the
 26 legislature may appropriate 50 percent of the amount calculated under
 27 AS 37.13.140(b) from the general fund to the dividend fund established in
 28 AS 43.23.045.

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

30 * **Sec. 12.** AS 37.13.300(c) is amended to read:

31 (c) Net income from the mental health trust fund may not be included in the

1 computation of [NET] income available for distribution under **AS 37.13.140(b)**
 2 [AS 37.13.140].

3 * **Sec. 13.** AS 43.23.025(a) is amended to read:

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

6 (1) determining the total amount available for dividend payments,
 7 which equals

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

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

14 (C) less the amount necessary to pay prior year dividends from
 15 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
 16 43.23.055(3) and (7);

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

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

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

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

29 * **Sec. 14.** AS 43.23.045(a) is amended to read:

30 (a) The dividend fund is established as a separate fund in the state treasury.

31 **The fund consists of money appropriated to it under AS 37.13.146.** The dividend

1 fund shall be administered by the commissioner and shall be invested by the
2 commissioner in the same manner as provided in AS 37.10.070.

3 * **Sec. 15.** AS 43.23.055 is amended to read:

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

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

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

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

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

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

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

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

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

1 not establish a time limit within which an application to have a disbursement reissued
2 must be filed;

3 (9) provide any information, upon request, contained in permanent
4 fund dividend records to the child support services agency created in AS 25.27.010, or
5 the child support enforcement agency of another state, for child support purposes
6 authorized under law; if the information is contained in an electronic data base, the
7 department shall provide the requesting agency with either

8 (A) access to the data base; or

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

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

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

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

19 * **Sec. 16.** AS 37.05.540(b), 37.05.540(c), 37.05.540(e); AS 37.13.145(b), and 37.13.145(c)
20 are repealed.

21 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

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

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

31 * **Sec. 18.** Section 17 of this Act takes effect immediately under AS 01.10.070(c).

1 * **Sec. 19.** Except as provided in sec. 18 of this Act, this Act takes effect July 1, 2017.