

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 21, 2021

1:06 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Liz Snyder, Vice Chair
Representative Harriet Drummond
Representative Jonathan Kreiss-Tomkins
Representative David Eastman
Representative Christopher Kurka
Representative Sarah Vance

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 39

"An Act relating to voter preregistration for minors at least 16 years of age."

- MOVED HB 39 OUT OF COMMITTEE

HOUSE BILL NO. 142

"An Act relating to eligibility for the permanent fund dividend."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 39

SHORT TITLE: VOTER PREREGISTRATION FOR MINORS

SPONSOR(s): REPRESENTATIVE(S) HOPKINS

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	STA, JUD
04/09/21	(H)	STA REFERRAL MOVED TO AFTER JUD
04/09/21	(H)	BILL REPRINTED
04/16/21	(H)	JUD AT 1:00 PM GRUENBERG 120
04/16/21	(H)	Heard & Held
04/16/21	(H)	MINUTE(JUD)

04/21/21 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 142

SHORT TITLE: PFD ELIGIBILITY

SPONSOR(S): REPRESENTATIVE(S) MCCARTY

03/20/21 (H) READ THE FIRST TIME - REFERRALS
03/20/21 (H) STA, JUD, FIN
04/09/21 (H) STA REFERRAL MOVED TO AFTER JUD
04/09/21 (H) BILL REPRINTED
04/21/21 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE KEN MCCARTY

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 142 as prime sponsor.

TIFFANY LUND, Staff

Representative Ken McCarty

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented during the hearing on HB 142.

BOBBI SCHERRER, Appeals Manager

Permanent Fund Dividend Division

Department of Revenue

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 142.

CHARLES MCKEE

Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 142.

ACTION NARRATIVE

[1:06:35 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:06 p.m. Representatives Drummond, Kreiss-Tomkins, Snyder (via teleconference) and Claman were present at the call to order. Representatives Eastman, Kurka, and Vance arrived as the meeting was in progress.

HB 39-VOTER PREREGISTRATION FOR MINORS

[1:07:10 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 39, "An Act relating to voter preregistration for minors at least 16 years of age."

[1:07:18 PM](#)

CHAIR CLAMAN stated that an amendment had been proposed and withdrawn and HB 39 was before the committee.

[1:08:00 PM](#)

REPRESENTATIVE KREISS-TOMKINS stated that he had had co-sponsored previous related legislation.

[1:08:30 PM](#)

REPRESENTATIVE EASTMAN stated his belief that the bill holds potential.

[1:08:49 PM](#)

REPRESENTATIVE CLAMAN stated his appreciation of the intent of the bill.

[1:09:20 PM](#)

REPRESENTATIVE SNYDER moved to report HB 39 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 39 was reported out of the House Judiciary Standing Committee.

[1:09:46 PM](#)

The committee took an at-ease from 1:09 to 1:12 p.m.

HB 142-PFD ELIGIBILITY

[1:12:44 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 142, "An Act relating to eligibility for the permanent fund dividend."

[1:12:54 PM](#)

CHAIR CLAMAN noted that for the committee's consideration, in the committee packet was a proposed committee substitute for HB 142.

[1:13:19 PM](#)

REPRESENTATIVE KEN MCCARTY, Alaska State Legislature, presented HB 142 as prime sponsor. He explained that the bill would reform eligibility for the Alaska permanent fund dividend for only active-duty military members stationed in Alaska. He stated that the bill would eliminate the allowable absence in AS 42.23.008 (3)(a) for service members and their dependents deployed outside of Alaska under a temporary deployment (TDY). He explained that future intent to remain in Alaska is difficult to determine.

[1:16:23 PM](#)

TIFFANY LUND, Staff, Representative Ken McCarty, Alaska State Legislature, on behalf of Representative McCarty, prime sponsor, summarized the sectional analysis on HB 142. She drew attention to Section 2 and stated that it contained a grammatical error and that language in eligibility criteria would be amended and not added, as indicated in the sectional analysis. She further explained that Section 2 would amend eligibility criteria to (3)(A) which specifies that the absence is allowable only if the individual is deployed or on a temporary duty assignment while serving on active duty and was physically residing in the state under orders of the armed forces immediately before the absence.

MS. LUND went on to explain the rest of the sectional analysis, which read as follows [original punctuation provided]:

Section 3

This section repeals the following eligibility requirements, criteria, or allowable absences.

AS 43.23.005 Eligibility

Repeals an individual's eligibility to receive a dividend if the individual has been physically present in the state for the at least 72 consecutive hours at some time during the prior two years before the current dividend year.

As 43.23.0050 Eligibility

Repeals the commissioner's ability to waive the 72 consecutive hour requirement, as that requirement is also repealed.

AS 43.23.008(e) Allowable absence

Repeals the requirement of the department to consider relevant factors to determine if an individual intends to return and remain in the state indefinitely.

Section 4

Provides an effective date of January 1, 2023.

MS. LUND clarified that the wording in the sectional analysis may be confusing and that it would be clearer to state that section 3 would repeal the eligibility requirement of physical presence in Alaska for 72 consecutive hours in a two-year period prior to the current dividend year to receive a dividend and repeal AS 43.23.005 (f), the commissioner's ability to waive that rule. She added that AS 43.23.008 (e) would also be repealed and it is language that the requirement of the department to consider relevant factors to determine if an individual intends to return and remain in the state indefinitely. She added that, finally, section 4 provides for an effective date. She asked whether the committee substitute had been adopted.

[1:19:10 PM](#)

CHAIR CLAMAN answered that it was the intention of the committee to adopt the aforementioned proposed committee substitute.

[1:20:02 PM](#)

REPRESENTATIVE SNYDER moved to adopt the proposed committee substitute (CS) for HB 142, Version 32-LS0491\I, Nauman, 4/19/21, ("Version I"), as a working document.

REPRESENTATIVE EASTMAN objected.

[1:20:25 PM](#)

REPRESENTATIVE EASTMAN asked for the bill sponsor to speak about the differences between the original bill and the proposed committee substitute.

[1:20:35 PM](#)

REPRESENTATIVE MCCARTY explained that the original draft of the bill had included individuals in the aviation profession, and the language had been eliminated to prevent ambiguity. He further added that the committee substitute would clarify language defining military residing in Alaska and deployment and TDY at the recommendation of the Permanent Fund Dividend Division (PFDD) auditors.

[1:21:45 PM](#)

REPRESENTATIVE EASTMAN asked whether the committee substitute under consideration would result in more or fewer restrictions on eligibility.

REPRESENTATIVE MCCARTY answered that there would not be more restrictive eligibility requirements, and that individuals who move out of Alaska would not be eligible to collect the dividend after moving out of state.

[1:22:38 PM](#)

REPRESENTATIVE VANCE asked whether there would be a change to the fiscal note, should the committee substitute be adopted.

MS. LUND answered that the fiscal note has not been changed but there existed a potential that it would change as a result of removing the aviation industry allowable absence provision. She added that PFDD staff were available to answer questions.

CHAIR CLAMAN asked PFDD staff to answer whether there would result a change in the fiscal note should the committee substitute be adopted.

[1:23:35 PM](#)

BOBBI SCHERRER, Appeals Manager, Permanent Fund Dividend Division, answered that there would likely be a change to the fiscal note to include revised data, should the committee substitute be adopted.

[1:23:57 PM](#)

CHAIR CLAMAN stated that the committee could expect a revised fiscal note.

REPRESENTATIVE EASTMAN removed his objection.

[1:24:15 PM](#)

CHAIR CLAMAN ascertained no further objection to the adoption of the committee substitute, and [Version I] was before the committee.

[1:24:47 PM](#)

REPRESENTATIVE KREISS-TOMKINS stated his dismay at the potential of tens of millions of dollars leaving the state due to individuals maintaining eligibility for the dividend after moving out of Alaska and with potentially no intent to return. He lauded the bill's sponsor for bringing forward this legislation. He stated his belief that the dividend should be distributed to residents of Alaska, in Alaska.

[1:25:55 PM](#)

REPRESENTATIVE VANCE asked what unintended consequences may result from the repeal of 43.23.005 (a) (4).

MS. SCHERRER answered that the repeal of the 72-hour requirement would influence the five-year rule, wherein individuals are required to return to Alaska for a total of 30 cumulative days to maintain eligibility for the dividend.

[1:27:59 PM](#)

REPRESENTATIVE VANCE asked whether AS 43.23.008 (e) pertained to the five-year rule, how it relates to an individual's intent to remain in Alaska, and whether there may exist broader implications [should HB 142 pass].

MS. SCHERRER answered that it would result in broader implications due to individuals working through the five-year eligibility requirements and their requirement to manage the 72 consecutive hours [of time within Alaska].

REPRESENTATIVE MCCARTY explained that that, under current statute, an individual who is on a permanent change of station out of state may claim his/her intent to return to the state and may obtain a storage unit or mailing address and claim it as evidence of having remained in state. The individual would be required to [be physically present] in the state for 72 hours each year over five years. He expressed his understanding that the change would apply only to those stationed outside of Alaska and would not apply to students attending college out of state.

[1:30:44 PM](#)

REPRESENTATIVE VANCE asked whether there exists a question on the permanent fund dividend (PFD) application to indicate whether the applicant is in state and intends to remain in state.

MS. SCHERRER answered yes, and the signature on the application is certification that the applicant is and intends to remain an Alaska resident.

REPRESENTATIVE VANCE asked whether HB 142 would remove that statement [from the application].

MS. SCHERRER affirmed this as correct.

[1:31:35 PM](#)

CHAIR CLAMAN referred to AS 43.23.005 (4) and asked whether this 72-hour provision would apply to college students out of state.

MS. SCHERRER state that the provision would apply to any resident absent from the state for more than 2 years.

CHAIR CLAMAN asked whether HB 142 would require a student to return to the state periodically for 72 hours to remain eligible [for the PFD].

MS. SCHERRER stated that it would be so required.

REPRESENTATIVE MCCARTY asked whether a student would be required to provide evidence that he/she is a full-time student.

MS. SCHERRER affirmed this as correct.

[1:33:11 PM](#)

CHAIR CLAMAN shared his experience as a parent of college students in which evidence of travel and activities while in state to meet the 72-hour requirement would be collected and prepared [to present to the PFDD as part of the application packet]. He explained that the evidence provided had been met with scrutiny by the PFDD.

CHAIR CLAMAN invited Representative Vance to continue her line of questioning regarding repeals proposed in HB 142.

[1:34:34 PM](#)

REPRESENTATIVE VANCE suggested that, if the committee's intent would be to repeal the 72-hour requirement, then a full review of all the implications should be taken into consideration. She expressed her support of the requirement in which PFD applicants are asked to certify whether they are Alaska residents and intend to remain so.

[1:35:46 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to AS 43.23.008 (17) (a) pertaining to the 180-days and other allowable absences, and asked whether it should be interpreted to mean that an applicant may be absent from the state for 180 days and remain eligible for a PFD.

MS. SCHERRER answered that an applicant may be absent from the state for 180 days for an "allowable" absence as well as an additional 180 days and remain eligible.

REPRESENTATIVE KREISS-TOMKINS stated his empathy for PFDD staff being required to interpret and apply confusing language that exists in statute. He asked where in statute an individual's total absence from the state threshold exists, such as for an individual who maintains a residence in another state.

MS. SCHERRER explained that an individual may be absent from the state for up to 180 days if he/she maintains the intent to remain an Alaska resident.

[1:38:32 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked the bill's sponsor what his opinion would be regarding any increase to the [180-day absence allowed].

REPRESENTATIVE MCCARTY stated his understanding that the 180-day threshold had not been contested with the exception of pilots, who may work for 160 days and then desire to take a vacation [out of state] and are unable to do so, and remain eligible for the PFD. He stated that complexities amounting to a "Pandora's box" arose when the language was examined [for ways to address the situation for pilots].

[1:39:46 PM](#)

REPRESENTATIVE SNYDER asked for an example that would illustrate the implications of the proposed change on page 2, line 8 regarding active-duty military members.

REPRESENTATIVE MCCARTY answered that, in 2018, 3,096 permanent fund dividends were distributed to military service members who no longer resided in Alaska and totaled \$4.9 million. He suggested that those individuals would no longer be eligible should HB 142 pass. He added that residents deployed out of state or are out of state due to TDY would remain eligible.

[1:41:46 PM](#)

CHAIR CLAMAN offered that the 180-day requirement language as requested by Representative Kreiss-Thompkins appears in AS 43.23.008 (d) and asked whether there exists another provision in statute that may be sought by Representative Kreiss-Thompkins.

MS. SCHERRER answered that there may exist other, combined language to answer Representative Kreiss-Tomkins' question and offered to follow up.

[1:42:39 PM](#)

REPRESENTATIVE KREISS-TOMKINS expressed his eagerness in awaiting PFDD staff research on the matter and recalled his understanding that, after five years of an individual residing out of state for a qualified reason scrutiny should be invited to that individual's claim to residency. He added that he had some familiarity due to constituents in military service in his district benefitting from the allowable absences for eligibility of the PFD.

[1:44:43 PM](#)

REPRESENTATIVE EASTMAN referred to subsection 14 pertaining to eligibility for Peace Corps volunteers and asked for a comparison between active-duty military members and Peace Corps members should HB 142 pass.

MS. SCHERRER answered that Peace Corps volunteers have an additional 45-day absence allowed under current statute. She suggested that no comparison could be made based on her understanding of Representative Eastman's question.

REPRESENTATIVE EASTMAN asked, should HB 142 pass, would an individual who is serving in the peace Corps have an easier eligibility threshold to qualify for the PFD than would an active-duty members of the military.

CHAIR CLAMAN asked Representative Eastman whether his question pertained to current law compared to the proposed bill as it related to members of the Peace Corps. Representative Eastman confirmed it was for the proposed bill.

MS. SCHERRER answered that there would be no change to members of the Peace Corps should HB 142 pass. She added that active-duty military members are separate and different from members of the Peace Corps.

[1:47:55 PM](#)

REPRESENTATIVE EASTMAN asked which eligibility requirement would be easier to meet between the Peace Corps eligibility requirement in Subsection 14 and the active-duty military eligibility requirement in Subsection 3, or if they were the same. He asked for a specific example demonstrating the eligibility requirements for each.

MS. SCHERRER answered that offered that, should HB 142 pass, if an active-duty military member was absent due to permanent change of station, then the applicant would no longer be eligible for the PFD. She added that eligibility requirements would be met if the individual was absent due to deployment or temporary duty assignment.

REPRESENTATIVE EASTMAN asked whether the same would apply to members of the Peace Corps.

MS. SCHERRER answered that her understanding is that the change would only apply to members of the military.

REPRESENTATIVE EASTMAN asked, should HB 142 pass, whether Subsections 10 and 11, permitting absences for service at congressional offices outside of Alaska, would result in more restrictive or less restrictive eligibility requirements than those of active-duty military members.

MS. SCHERRER answered that [the proposed change] would be more restrictive for military absences.

[1:50:05 PM](#)

CHAIR CLAMAN opened public testimony on HB 142.

[1:50:32 PM](#)

CHARLES MCKEE, Anchorage, Alaska, testified on subjects outside the scope of the hearing on HB 142.

CHAIR CLAMAN ascertained that no one else wished to testify and closed public testimony on HB 142.

[1:53:00 PM](#)

CHAIR CLAMAN asked PFDD staff whether specific language pertaining to the 180-day absence requested by Representative Kreiss-Tomkins had been identified.

MS. SCHERRER referred to AS 43.23.008 (17) which allows for any individual's absence if the resident intends to remain a state resident. She referred to 15 AAC 23.163 (b) further contains language to support the statute.

[1:54:24 PM](#)

REPRESENTATIVE EASTMAN noted that different categories of residency and absences exist and asked why members of the military are held to a standard different than others such as individuals working in congress or Peace Corps members.

REPRESENTATIVE MCCARTY answered that the proposed legislation would intend to bring equality for those residing in the state, among the different categories of individuals who may be out of state and maintain their intention to remain a resident of the state. He added that the intention to remain is the common factor among the groups listed in AS 43.23.008 (1-16) listing exceptions. He shared his understanding that individuals serving in the military who live in the state have expressed their concern that other members who do not live in the state who are not on TDY or deployed remain eligible for the PFD.

REPRESENTATIVE EASTMAN asked whether it would be sensible to allow any of the approximate one dozen categories, including Olympic athletes and congressional workers, to be subject to the same priority for eligibility as military service members.

REPRESENTATIVE MCCARTY stated that the provision exempting Olympic athletes had been scrutinized and it had been determined

that loopholes existed, and he suggested that language is important. He added that some individuals may collect a PFD despite never coming to Alaska.

[1:59:08 PM](#)

CHAIR CLAMAN announced that HB 142, [Version I], was held over.

[1:59:55 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:59 p.m.