

Introduced: 3/9/82
Referred: Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 842

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for permanent fund dividends; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.23.010, 43.23.014, 43.23.020, 43.23.030, 43.23.040,
10 43.23.050, 43.23.060, 43.23.070, 43.23.080, 43.23.090, and 43.23.100 are re-
11 pealed.

12 * Sec. 2. AS 43.23 is amended by adding new sections to read:

13 Sec. 43.23.005. ELIGIBILITY. An individual is eligible to receive
14 one permanent fund dividend each year in an amount to be determined un-
15 der AS 43.23.025 if he makes application to the department, and on the
16 date of application the individual

17 (1) is at least 18 years of age;

18 (2) is a state resident; and

19 (3) has been a state resident for a period of at least six
20 months immediately preceding the date he applies.

21 Sec. 43.23.015. PAYMENTS FOR PRIOR YEARS. (a) Beginning with ap-
22 plication for the 1983 dividend and for each year after that, an indi-
23 vidual who becomes 18 years of age on or before the last day for filing
24 an application during a year may file a claim for and receive permanent
25 fund dividends for all prior years beginning on or after January 1,
26 1982, in which he would have been eligible under AS 43.23.005 if he had
27 then been 18 years of age.

28 (b) A claim for dividends for prior years under this section may
29 be filed even if the individual is not a state resident at the time he

1 makes the claim.

2 (c) In order to receive a dividend for a prior year, an individual
3 must file an application for all prior dividends within one year after
4 reaching the age of 18 and within the time limits established under
5 AS 43.23.065(2) for the current year's applications. Failure to file an
6 application for dividends for prior years within this period waives all
7 entitlement to those dividends. The department shall prescribe and make
8 available forms for applications for dividends for prior years, and may
9 require proof of eligibility in addition to that required for a current
10 year under AS 43.23.025(a).

11 (d) The value of a permanent fund dividend for a prior year is the
12 value published by the commissioner under AS 43.23.035 for that prior
13 year. Interest on permanent fund dividends paid for a prior year under
14 this section is computed and paid from January 1 of the year following
15 that year, using the average rate of return earned since that time by
16 the Alaska permanent fund.

17 (e) Nothing in this section prevents an individual from claiming
18 and receiving a permanent fund dividend under AS 43.23.005 for the cur-
19 rent year for which he is eligible.

20 Sec. 43.23.025. PROOF OF ELIGIBILITY. (a) The commissioner shall
21 adopt regulations under the Administrative Procedure Act (AS 44.62) for
22 determining the eligibility of individuals. The commissioner may re-
23 quire an individual to provide proof of eligibility, and he may use oth-
24 er information available to him from other state departments or agencies
25 to determine the eligibility of an individual.

26 (b) The department shall prescribe and furnish an application form
27 for claiming a permanent fund dividend. The application must contain a
28 statement of eligibility and a certification of residency in substan-
29 tially the following form:

1 I certify that I am a state resident on the date of this
2 application and that I have been a state resident for at
3 least six months immediately preceding the date of this
4 application. I also understand that a false claim of res-
5 idency to obtain a permanent fund dividend is a criminal
6 offense and that if convicted I will forfeit all perman-
7 ent fund dividends and that I must repay all permanent
8 fund dividends which have been paid to me. I understand
9 that this penalty is in addition to any criminal penalties
10 imposed.

11 _____
12 (signature of individual)

13 Sec. 43.23.035. AMOUNT OF DIVIDEND. By August 1 of each year the
14 commissioner shall give public notice of the value of each permanent
15 fund dividend for that year. The commissioner shall determine the value
16 of a permanent fund dividend by

17 (1) determining the amount of income of the Alaska permanent
18 fund transferred to the dividend fund under AS 43.23.055(b) during the
19 current year;

20 (2) determining the number of permanent fund dividends pay-
21 able to eligible individuals for the current year, including the number
22 of prior year dividends payable that year; and

23 (3) dividing the amount determined in (1) of this section by
24 the amount determined in (2) of this section.

25 Sec. 43.23.045. PENALTIES AND ENFORCEMENT. (a) In addition to
26 any criminal penalties imposed by state law, if an individual is con-
27 victed of a crime in connection with a false statement made in a certi-
28 fication required under AS 43.23.025, and the conviction is not re-
29 versed, that individual forfeits all permanent fund dividends paid to

1 him and may never again be eligible for a permanent fund dividend.

2 (b) If the commissioner determines that a permanent fund dividend
3 should not have been claimed by or paid to an individual, he may use all
4 collection procedures or remedies available under this title to recover
5 the payment of a permanent fund dividend which was improperly made. A
6 notice of an improperly paid dividend must be sent to the individual
7 within 10 years after the improper payment. If notice is not sent with-
8 in the 10-year period, proceedings may not be commenced in court for re-
9 covery of the improper payment.

10 Sec. 43.23.055. DIVIDEND FUND ESTABLISHED. (a) The dividend fund
11 is established as a separate fund in the state treasury. The dividend
12 fund shall be administered by the commissioner and may be invested by
13 the commissioner in the same manner as provided in AS 37.10.070. Money
14 in the dividend fund shall be used to pay permanent fund dividends annu-
15 ally.

16 (b) Each year the commissioner shall transfer to the dividend fund
17 50 percent of the income of the Alaska permanent fund which was earned
18 during the fiscal year ending on June 30 of the current year and which
19 is available for distribution under AS 37.13.130.

20 Sec. 43.23.065. DUTIES OF THE DEPARTMENT. The department shall

21 (1) annually pay permanent fund dividends from the dividend
22 fund;

23 (2) adopt regulations under the Administrative Procedure Act
24 (AS 44.62) which establish procedures and time limits for claiming a
25 permanent fund dividend; the department shall set the time limit for ap-
26 plications for permanent fund dividends so that the number of eligible
27 applicants is determined by August 1 and permanent fund dividends for a
28 year are paid before December 31 of that year; and

29 (3) assist residents of the state, particularly in rural

1 areas, who because of language, illness, old age, or inaccessibility to
2 public transportation need assistance to establish eligibility and to
3 apply for permanent fund dividends.

4 Sec. 43.23.075. EXEMPTION OF PERMANENT FUND DIVIDENDS. Fifty per-
5 cent of the annual permanent fund dividend payable to an individual is
6 exempt from levy, execution, garnishment, attachment, or any other rem-
7 edy for the collection of debt. This exemption applies to an eligible
8 individual's dividend both before and after payment is made to the in-
9 dividual and applies even if the dividend payment is commingled with
10 other money of the individual.

11 Sec. 43.23.085. ELIGIBILITY FOR STATE PUBLIC ASSISTANCE PAYMENTS.
12 In determining the eligibility of an individual under a state social
13 service assistance program administered by the Department of Health and
14 Social Services and in which eligibility for assistance is based on fi-
15 nancial aid, the Department of Health and Social Services may include as
16 income of the individual only the amount of the permanent fund dividends
17 in excess of \$1,500 paid to the individual for a year.

18 Sec. 43.23.095. DEFINITIONS. In this chapter,

19 (1) "Alaska permanent fund" means the fund established by
20 art. IX, sec. 15 of the state constitution;

21 (2) "commissioner" means the commissioner of revenue;

22 (3) "department" means the Department of Revenue;

23 (4) "dividend fund" means the fund established by AS 43.23.-
24 055;

25 (5) "individual" means a natural person;

26 (6) "permanent fund dividend" means a right to receive a pay-
27 ment from the dividend fund;

28 (7) "state resident" means an individual who is physically
29 present in the state with the intent to remain permanently in the state

1 or, if he is not physically present in the state, intends to return to
2 the state and is absent only for any of the following reasons:

3 (A) vocational, professional, or other specific educa-
4 tion for which a comparable program was not reasonably available in
5 the state;

6 (B) secondary or postsecondary education;

7 (C) military service;

8 (D) medical treatment;

9 (E) service in Congress; or

10 (F) other reasons which the commissioner may establish
11 by regulation;

12 (8) "year" means a calendar year.

13 * Sec. 3. AS 43.23.010(a) is amended to read:

14 (a) An individual who is eligible under (b) of this section is en-
15 titled to one permanent fund dividend for each full year that the indi-
16 vidual is a state resident after January 1, 1982 [1959].

17 * Sec. 4. AS 43.23.020(b)(1) is amended to read:

18 (1) a statement of eligibility and a certification of resi-
19 dency in substantially the following form:

20 I certify that I am a state resident on the date of this ap-
21 plication and I have been a state resident for _____ full
22 years and that I understand that my claim for a permanent
23 fund dividend is determined by the length of my residence in
24 the state after January 1, 1982 [1959]. I also understand
25 that a false claim of residency to obtain a permanent fund
26 dividend is a criminal offense and that if convicted I will
27 forfeit all permanent fund dividends and that I must repay
28 all permanent fund dividends which have been paid to me. I
29 understand that this penalty is in addition to any criminal

1 penalties imposed.

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3
4 _____
5 (signature of individual)

6 and

7 * Sec. 5. AS 43.23 is amended by adding a new section to read:

8 Sec. 43.23.014. PAYMENTS FOR PRIOR YEARS. (a) Beginning with ap-
9 plication for the 1983 dividend and for each year after that, an indi-
10 vidual who becomes 18 years of age on or before the last day for filing
11 an application during a year may file a claim for and receive permanent
12 fund dividends for all prior years beginning on or after January 1,
13 1982, in which he would have been eligible under AS 43.23.010 if he had
14 then been 18 years of age.

15 (b) A claim for dividends for prior years under this section may
16 be filed even if the individual is not a state resident at the time he
17 makes the claim.

18 (c) In order to receive a dividend for a prior year, an individual
19 must file an application for all prior dividends within one year after
20 reaching the age of 18 and within the time limits established under
21 AS 43.23.060(2) for the current year's applications. Failure to file an
22 application for dividends for prior years within this period waives all
23 entitlement to those dividends. The department shall prescribe and make
24 available forms for applications for dividends for prior years, and may
25 require proof of eligibility in addition to that required for a current
26 year under AS 43.23.020(a).

27 (d) The value of a permanent fund dividend for a prior year is the
28 value published by the commissioner under AS 43.23.030 for that prior
29 year. Interest on permanent fund dividends paid for a prior year under
this section is computed and paid from January 1 of the year following

1 that year, using the average rate of return earned since that time by
2 the Alaska permanent fund.

3 (e) Nothing in this section prevents an individual from claiming
4 and receiving a permanent fund dividend under AS 43.23.010 during the
5 current year in which he is eligible.

6 * Sec. 6. 1982 PERMANENT FUND DISTRIBUTION. (a) Notwithstanding the
7 provisions of AS 43.23 enacted in this Act, the amount of each dividend for
8 1982 only is \$1,000. For 1982 only, an individual who filed an application
9 for permanent fund dividends during 1980 or 1981 under the provisions of
10 AS 43.23, and who was determined to be eligible by the department for a per-
11 manent fund dividend under those provisions, is eligible for a permanent fund
12 dividend under this section. As soon as possible after the effective date of
13 this section, the department shall issue warrants for permanent fund divi-
14 dends for 1982 to eligible individuals who filed applications for permanent
15 fund dividends during 1980 or 1981.

16 (b) As soon as possible after the effective date of this section, the
17 department shall make available application forms for permanent fund divi-
18 dends for 1982 for individuals who are eligible under AS 43.23, but who for
19 any reason did not file an application during 1980 or 1981.

20 (c) An individual is eligible for a permanent fund dividend under (b)
21 of this section if he makes application to the department, and on the date of
22 application the individual

23 (1) is at least 18 years of age;

24 (2) is a state resident; and

25 (3) has been a state resident for a period of at least six months
26 immediately preceding the date he applies.

27 (d) The department may adopt regulations to govern the 1982 dividend
28 distribution as emergency regulations under AS 44.62.250.

29 (e) The income of the Alaska permanent fund for fiscal year 1982 trans-

1 referred to the dividend fund, may not be used for payment of dividends for
2 1982, but must remain in the dividend fund and be used for payment of perman-
3 ent fund dividends for 1983 along with the fiscal year 1983 earnings of the
4 Alaska permanent fund transferred to the dividend fund.

5 (f) In this section, "department" means the Department of Revenue.

6 * Sec. 7. Section 4, chapter 21, SLA 1980 is repealed.

7 * Sec. 8. If the United States Supreme Court decides that AS 43.23.010(a)
8 is invalid on the basis of the date specified in that subsection, then the
9 language specifying that date is severable, and all other provisions of
10 AS 43.23, as enacted in ch. 21, SLA 1980, remain effect.

11 * Sec. 9. Sections 3, 4, and 8 of this Act take effect 60 days after the
12 date that the United States Supreme Court decides that AS 43.23.010 is inval-
13 id but also decides that AS 43.23.010 would not violate the United States
14 Constitution if the amount of a permanent fund dividend were determined by
15 accumulated years of residency in the state beginning on or after January 1,
16 1979.

17 * Sec. 10. Sections 1 and 2 of this Act take effect 60 days after the
18 date that the United States Supreme Court decides that AS 43.23.010 is inval-
19 id because the amount of a permanent fund dividend is determined by accumu-
20 lated years of residency in the state whether those years are counted before
21 or after January 1, 1979.

22 * Sec. 11. Sections 5 and 7 of this Act take effect immediately in accor-
23 dance with AS 01.10.070(c).

24 * Sec. 12. Notwithstanding the provisions of AS 43.23.014(c), enacted in
25 sec. 5 of this Act, which require an individual to file an application for
26 prior dividends within one year after reaching 18 years of age, an individual
27 may file a claim during 1983 for dividends for all prior years for which he
28 is eligible if that individual has turned 18 years of age on or before the
29 last day for filing an application during 1983.

1 * Sec. 13. Section 6 of this Act takes effect on the date that the United
2 States Supreme Court decides that AS 43.23.010 is for any reason invalid.
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