

Original sponsor: Rules/Governor

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Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 842 (Finance) am

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."

7

8

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

9

* Section 1. AS 43.23 is amended by adding new sections to read:

10

Sec. 43.23.005. ELIGIBILITY. (a) An individual is eligible to
11 receive one permanent fund dividend each year in an amount to be deter-
12 mined under AS 43.23.035 if he applies to the department, and if on the
13 date of application the individual

14

(1) is at least 18 years of age;

15

(2) is a state resident; and

16

(3) has been a state resident for a period of at least twelve
17 consecutive months immediately preceding the date of application.

18

(b) In determining the minimum period of an individual's residency
19 required under (a)(3) of this section, the department may include months
20 of residency both in the current year and in the immediately preceding
21 year.

22

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

29

(b) A claim for permanent fund dividends for prior years under

1 this section may be filed even if the individual is not a state resident
2 at the time the claim is filed.

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

12 (d) The value of a permanent fund dividend for a prior year is the
13 value published by the commissioner under AS 43.23.035 for that prior
14 year. Interest on permanent fund dividends paid for a prior year under
15 this section is computed and paid from January 1 following the year for
16 which the individual is entitled to a prior year dividend, using the
17 average rate of return earned since that time by the dividend fund
18 established in AS 43.23.055.

19 (e) Nothing in this section prevents an individual from claiming
20 and receiving a permanent fund dividend under AS 43.23.005 for the
21 current year for which he is eligible.

22 Sec. 43.23.025. PROOF OF ELIGIBILITY. (a) The commissioner shall
23 adopt regulations under the Administrative Procedure Act (AS 44.62) for
24 determining the eligibility of individuals for permanent fund dividends.
25 The commissioner may require an individual to provide proof of eligibil-
26 ity, and he may use other information available to him from other state
27 departments or agencies to determine the eligibility of an individual.

28 (b) The department shall prescribe and furnish an application form
29 for claiming a permanent fund dividend. The application must contain a

1 statement of eligibility and a certification of residency in substan-
2 tially the following form:

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

13 _____
14 (signature of individual)

15 (c) Beginning with application for the 1983 permanent fund divi-
16 dend and for each year after that, an individual who is a parent or legal
17 guardian of a minor child who is a resident of the state shall provide to
18 the department the following information with respect to each minor child:

19 (1) full name;
20 (2) date of birth;
21 (3) current address if different from the parent's or
22 guardian's address; and

23 (4) other information required by the department relating to
24 the future eligibility of the child to claim a prior year permanent fund
25 dividend under AS 43.23.015.

26 (d) The department shall maintain a record of the information
27 provided under (c) of this section for each minor child until the time
28 for that child to file a claim for prior year permanent fund dividends
29 has expired. The information required in (c) of this section may be

1 used only to estimate the number of future claims for prior year perma-
2 nent fund dividends and to verify the eligibility of individuals who
3 have filed claims for prior year permanent fund dividends. This infor-
4 mation may be used in place of other proof of eligibility permitted
5 under (a) of this section and under AS 43.23.015(c). The failure of a
6 parent or guardian to provide the information required by (c) of this
7 section does not affect the child's eligibility in the future to receive
8 payment for a prior year permanent fund dividend.

9 Sec. 43.23.035. AMOUNT OF DIVIDEND. By September 1 of each year
10 the commissioner shall give public notice of the value of each permanent
11 fund dividend for that year. The commissioner shall determine the value
12 of a permanent fund dividend by

13 (1) determining the amount of income of the Alaska permanent
14 fund transferred to the dividend fund under AS 43.23.055(b) during the
15 current year;

16 (2) determining the number of individuals eligible to receive
17 a dividend payment for the current year plus an estimate of the number
18 of individuals under 18 years of age who will be eligible in the future
19 to claim a dividend for the current year as a prior year dividend under
20 AS 43.23.015; and

21 (3) dividing the amount determined in (1) of this section by
22 the amount determined in (2) of this section.

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

29 (b) If the commissioner determines that a permanent fund dividend

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

8 Sec. 43.23.055. DIVIDEND FUND. (a) The dividend fund is estab-
9 lished as a separate fund in the state treasury. The dividend fund
10 shall be administered by the commissioner and shall be invested by the
11 commissioner in the same manner as provided in AS 37.10.070.

12 (b) Each year the commissioner shall transfer to the dividend fund
13 50 percent of the income of the Alaska permanent fund earned during the
14 fiscal year ending on June 30 of the current year and available for
15 distribution under AS 37.13.130.

16 (c) Each year the department shall pay from the dividend fund all
17 permanent fund dividends payable to eligible individuals for the current
18 year and all permanent fund dividends for prior years, including inter-
19 est, payable that year to eligible individuals. The money remaining
20 each year after these payments are made, and any interest earned from
21 investment of money in the dividend fund, remains in the dividend fund
22 to pay future claims for prior year permanent fund dividends.

23 (d) The department shall review the status of the dividend fund
24 every four years beginning in 1987 to determine whether there is suffi-
25 cient money in the fund to pay future claims for prior year permanent
26 fund dividends. On August 1 of the year of a review the commissioner
27 shall certify the amount of excess or the deficiency of money, as the
28 case may be. If there is an excess, the amount of income described in
29 AS 43.23.035(1) shall be increased by the amount of the excess for

1 purposes of determining the value of a permanent fund dividend for that
2 year under AS 43.23.035. If there is a deficiency, the amount of income
3 described in AS 43.23.035(1) shall be reduced by the amount of the
4 deficiency for purposes of determining the value of a permanent fund
5 dividend for that year under AS 43.23.035.

6 (e) The department may adopt by regulation a plan that, to the
7 extent permitted by federal law, will allow an individual who elects to
8 participate in the plan to select an optional disbursement of the divi-
9 dend payment that would have the effect of deferring payment of all or a
10 portion of federal income taxes on the receipt of a permanent fund
11 dividend.

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

13 (1) annually pay permanent fund dividends from the dividend
14 fund;

15 (2) adopt regulations under the Administrative Procedure Act
16 (AS 44.62) that establish procedures and time limits for claiming a
17 permanent fund dividend; the department shall set the time limit for
18 applications for permanent fund dividends so that the number of eligible
19 applicants is determined by September 1 and permanent fund dividends for
20 a year are paid before December 31 of that year; and

21 (3) assist residents of the state, particularly in rural
22 areas, who because of language, illness, old age, or inaccessibility to
23 public transportation need assistance to establish eligibility and to
24 apply for permanent fund dividends.

25 Sec. 43.23.075. EXEMPTION OF PERMANENT FUND DIVIDENDS. Fifty
26 percent of the annual permanent fund dividend payable to an individual
27 is exempt from levy, execution, garnishment, attachment, or any other
28 remedy for the collection of debt. This exemption applies to an eligible
29 individual's permanent fund dividend both before and after payment is

1 made to the individual and applies even if the dividend payment is
2 commingled with other money of the individual. The exemption under this
3 section does not apply to obligations for child support.

4 Sec. 43.23.085. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) In
5 determining the eligibility of an individual under a public assistance
6 program administered by the Department of Health and Social Services in
7 which eligibility for assistance is based on financial need, the Depart-
8 ment of Health and Social Services may not consider a permanent fund
9 dividend as income or resources for the month the dividend was received
10 by the recipient of public assistance unless required to do so by
11 federal law or regulation. The Department of Health and Social Services
12 shall notify all recipients of public assistance of the effects of
13 receiving a permanent fund dividend.

14 (b) An individual who is denied medical assistance under Title
15 XIX of the federal Social Security Act (42 U.S.C. 1396 et seq) solely
16 because of the receipt of a permanent fund dividend is eligible for
17 state-funded medical assistance under the general relief assistance
18 program (AS 47.25.120 - 47.25.300). The individual shall receive the
19 same level of medical assistance as the individual would have received
20 under Title XIX of the federal Social Security Act had there been no
21 permanent fund dividend program.

22 (c) An individual who is denied assistance because permanent
23 fund dividends are counted as income or resources under federal law or
24 regulation is eligible for cash assistance under the general relief
25 assistance program (AS 47.25.120 - 47.25.300). Notwithstanding the
26 limit in AS 47.25.130, the individual shall receive the same amount as
27 the individual would have received under other public assistance pro-
28 grams had there been no permanent fund dividend program.

29 Sec. 43.23.086. ELIGIBILITY FOR STATE PROGRAMS. No program

1 administered by the state or any of its instrumentalities or municipal-
2 ities, the eligibility for which is based on financial need, shall
3 consider a permanent fund dividend as income or resources unless re-
4 quired to do so by federal law or regulation.

5 Sec. 43.23.095. DEFINITIONS. In this chapter,

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

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

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

10 (4) "dividend fund" means the fund established by AS 43.-
11 23.055;

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

13 (6) "permanent fund dividend" means a right to receive a
14 payment from the dividend fund;

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

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

22 (B) secondary or postsecondary education;

23 (C) military service;

24 (D) medical treatment;

25 (E) service in Congress; or

26 (F) other reasons which the commissioner may establish

27 by regulation;

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

29 * Sec. 2. AS 43.23.010(a) is amended to read:

1 (a) An individual who is eligible under (b) of this section is
2 entitled to one permanent fund dividend for each full year that the
3 individual is a state resident after January 1, 1982 [1959].

4 * Sec. 3. AS 43.23.020(b)(1) is amended to read:

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

7 I certify that I am a state resident on the date of
8 this application and I have been a state resident for
9 _____ full years and that I understand that my claim
10 for a permanent fund dividend is determined by the
11 length of my residence in the state after January 1,
12 1982 [1959]. I also understand that a false claim of
13 residency to obtain a permanent fund dividend is a
14 criminal offense and that if convicted I will forfeit
15 all permanent fund dividends and that I must repay
16 all permanent fund dividends which have been paid to
17 me. I understand that this penalty is in addition
18 to any criminal penalties imposed.

19 _____
20 (signature of individual)

21 and

22 * Sec. 4. AS 43.23 is amended by adding a new section to read:

23 Sec. 43.23.014. PAYMENTS FOR PRIOR YEARS. (a) Beginning with
24 application for permanent fund dividends filed during 1983 and for each
25 year after that, an individual who becomes 18 years of age on or before
26 the last day for filing an application during a year may file a claim
27 for and receive permanent fund dividends for all prior years in which he
28 would have been eligible under AS 43.23.010 if he had then been 18 years
29 of age.

1 (b) A claim for permanent fund dividends for prior years under
2 this section may be filed even if the individual is not a state resident
3 at the time he makes the claim.

4 (c) In order to receive a permanent fund dividend for a prior
5 year, an individual must file a claim for all prior dividends within one
6 year after reaching the age of 18 and within the time limits established
7 under AS 43.23.060(2) for the current year's application. Failure to
8 file a claim for permanent fund dividends for prior years within this
9 period waives all entitlement to those dividends. The department shall
10 prescribe and make available forms for claims for permanent fund divi-
11 dends for prior years, and may require proof of eligibility in addition
12 to that required for a current year under AS 43.23.020(a).

13 (d) The value of a permanent fund dividend for a prior year is the
14 value published by the commissioner under AS 43.23.030 for that prior
15 year. Interest on permanent fund dividends paid for a prior year under
16 this section is computed and paid from January 1 of the year following
17 that year, using the average rate of return earned since that time by
18 the dividend fund established in AS 43.23.050.

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

22 * Sec. 5. AS 43.23.020 is amended by adding new subsections to read:

23 (c) Beginning with application for a permanent fund dividend filed
24 during 1983 and each year after that, an individual who is a parent or
25 legal guardian of a minor child who is a resident of the state, shall
26 provide to the department the following information with respect to each
27 minor child:

- 28 (1) full name;
29 (2) date of birth;

1 (3) current address if different from the parent or guardian's
2 address; and

3 (4) other information required by the department relating to
4 the future eligibility of the child to claim a prior year permanent fund
5 dividend.

6 (d) The department shall maintain a record of the information
7 provided under (c) of this section for each minor child until the time
8 for that child to file a claim for prior year permanent fund dividends
9 has expired. The information required in (c) of this section may be
10 used only to estimate the number of future claims for prior year divi-
11 dends and to verify the eligibility of individuals who have filed claims
12 for prior year dividends. This information may be used in place of
13 other proof of eligibility permitted under (a) of this section and under
14 AS 43.23.014(c). The failure of a parent or guardian to provide the
15 information required by (c) of this section does not affect the child's
16 eligibility in the future to receive payment for a prior year dividend.

17 * Sec. 6. AS 43.23.030(2) is amended to read:

18 (2) determining the number of permanent fund dividends paid
19 during the current year plus an estimate of the number of dividends for
20 that year which individuals under 18 years of age will be eligible in
21 the future to claim as dividends for a prior year under AS 43.23.014;
22 and

23 * Sec. 7. AS 43.23.050 is amended by adding new subsections to read:

24 (d) Each year the department shall pay from the dividend fund all
25 permanent fund dividends payable to eligible individuals for the current
26 year and all permanent fund dividends for prior years, including inter-
27 est, payable that year to eligible individuals. The money remaining
28 each year after these payments are made, and any interest earned from
29 investment of money in the dividend fund, remains in the fund to pay

1 claims for prior year permanent fund dividends.

2 (e) The department shall review the status of the fund every four
3 years beginning in 1985 to determine whether there is sufficient money
4 in the fund to pay future claims for prior year permanent fund divi-
5 dends. On August 1 of the year of a review the commissioner shall
6 certify the amount of excess or deficient funds, as the case may be. If
7 there is an excess, the amount of income described in AS 43.23.030(1)
8 shall be increased by the amount of the excess for purposes of deter-
9 mining the value of a permanent fund dividend under AS 43.23.030 to be
10 paid in the following year. If there is a deficiency, the amount of
11 income described in AS 43.23.030(1) shall be reduced by the amount of
12 the deficiency for purposes of determining the value of a permanent fund
13 dividend under AS 43.23.030 to be paid in the following year.

14 * Sec. 8. AS 43.23.070 is amended by adding a new subsection to read:

15 (d) No exemption is available under this section for permanent
16 fund dividends taken to satisfy child support obligations required by
17 court order.

18 * Sec. 9. AS 43.23.080 is repealed and reenacted to read:

19 Sec. 43.23.080. ELIGIBILITY FOR STATE PROGRAMS. No program admin-
20 istered by the state or any of its instrumentalities or municipalities,
21 the eligibility for which is based on financial need, shall consider a
22 permanent fund dividend as income or resources unless required to do so
23 by federal law or regulation.

24 * Sec. 10. AS 43.23 is amended by adding a new section to read:

25 Sec. 43.23.087. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) In
26 determining the eligibility of an individual under a public assistance
27 program administered by the Department of Health and Social Services
28 and in which eligibility for assistance is based on financial need,
29 the Department of Health and Social Services may not consider a

1 permanent fund dividend as income or resources for the month the divi-
2 dend was received by the recipient of public assistance unless required
3 to do so by federal law or regulation. The Department of Health and
4 Social Services shall notify all recipients of public assistance of the
5 effects of receiving a permanent fund dividend.

6 (b) An individual who is denied medical assistance under Title
7 XIX of the federal Social Security Act (42 U.S.C. 1396 et seq) solely
8 because of the receipt of a permanent fund dividend is eligible for
9 state-funded medical assistance under the general relief assistance
10 program (AS 47.25.120 - 47.25.300). The individual shall receive the
11 same level of medical assistance as the individual would have received
12 under Title XIX of the federal Social Security Act had there been no
13 permanent fund dividend program.

14 (c) An individual who is denied assistance because permanent
15 fund dividends are counted as income or resources under federal law or
16 regulation is eligible for cash assistance under the general relief
17 assistance program (AS 47.25.120 - 47.25.300). Notwithstanding the
18 limit in AS 47.25.130, the individual shall receive the same amount as
19 the individual would have received under other public assistance
20 programs had there been no permanent fund dividend program.

21 * Sec. 11. 1982 PERMANENT FUND DIVIDEND DISTRIBUTION. (a) This section
22 applies to the distribution of permanent fund dividends under AS 43.23 during
23 1982 only. The provisions of this section relating to the value of a perma-
24 nent fund dividend, eligibility requirements, application procedures, and
25 time limits apply to the distribution of permanent fund dividends during 1982,
26 notwithstanding any contrary provisions of AS 43.23 that are in effect on the
27 effective date of this section or that take effect after the effective date
28 of this section. All other provisions of AS 43.23 in effect on the effective
29 date of this section apply to the distribution of permanent fund dividends

1 under this section.

2 (b) An individual is eligible to receive one permanent fund dividend in
3 1982 if he applies to the department, and if on the date of application the
4 individual

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

6 (2) is a state resident; and

7 (3) has been a state resident for a period of at least six con-
8 secutive months immediately preceding the date of application.

9 (c) In determining the minimum period of an individual's residency
10 required under (b)(3) of this section, the department may include months of
11 residency both in 1982 and in 1981.

12 (d) The amount of each dividend for 1982 is \$1,000.

13 (e) An individual meets the requirement of applying to the department
14 under (b) of this section if the individual

15 (1) before the effective date of this section and during 1982
16 filed an application with the department under AS 43.23.010; or

17 (2) files an application with the department under this section
18 within the time limits established by the department in regulations adopted
19 under (g) of this section.

20 (f) As soon as possible after the effective date of this section, the
21 department shall issue warrants for permanent fund dividends to eligible
22 individuals. The department shall make application forms available and may
23 continue to use the application forms prepared under AS 43.23.020(b) for
24 applications under this section.

25 (g) The department may adopt regulations to govern the 1982 dividend
26 distribution as emergency regulations under AS 44.62.250.

27 (h) The income of the Alaska permanent fund for fiscal year 1982 trans-
28 ferred to the dividend fund may not be used for payment of dividends during
29 1982, but must remain in the dividend fund and be used for payment of

1 permanent fund dividends during 1983 along with the fiscal year 1983 earnings
2 of the Alaska permanent fund transferred to the dividend fund.

3 (i) In this section, "department" means the Department of Revenue.

4 * Sec. 12. Section 4, ch. 21, SLA 1980, is repealed.

5 * Sec. 13. AS 43.23.050(c) is repealed.

6 * Sec. 14. AS 43.23.010, 43.23.014, 43.23.020, 43.23.030, 43.23.040,
7 43.23.050, 43.23.060, 43.23.070, 43.23.080, 43.23.090, and 43.23.100 are re-
8 pealed.

9 * Sec. 15. If the United States Supreme Court decides that AS 43.23.010(a)
10 is invalid on the basis of the date specified in that subsection, then the
11 language specifying that date is severable, and all other provisions of
12 AS 43.23, as enacted in ch. 21, SLA 1980, remain in effect.

13 * Sec. 16. Notwithstanding the provisions of AS 43.23.014(c), enacted in
14 sec. 4 of this Act, which require an individual to file an application for
15 prior year permanent fund dividends within one year after reaching 18 years
16 of age, an individual may file a claim during 1983 for permanent fund divi-
17 dends for all prior years for which he is eligible if that individual has
18 turned 18 years of age on or before the last day for filing an application
19 during 1983.

20 * Sec. 17. Sections 2 and 3 of this Act take effect 60 days after the
21 date that the United States Supreme Court decides that AS 43.23.010 is
22 invalid but also decides that AS 43.23.010 would not violate the United
23 States Constitution if the amount of a permanent fund dividend were deter-
24 mined by accumulated years of residency in the state beginning on or after
25 January 1, 1979.

26 * Sec. 18. Sections 1 and 14 of this Act take effect 60 days after the
27 date that the United States Supreme Court decides that AS 43.23.010 is
28 invalid because the amount of a permanent fund dividend is determined by
29 accumulated years of residency in the state whether those years are counted

1 before or after January 1, 1979.

2 * Sec. 19. Sections 4 - 7, 12, 13, 15, and 16 of this Act take effect
3 immediately in accordance with AS 01.10.070(c).

4 * Sec. 20. Section 11 of this Act takes effect on the date that the United
5 States Supreme Court decides that AS 43.23.010 is for any reason invalid.

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