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Referred: State Affairs
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1 IN THE HOUSE

BY LARSON

2

HOUSE BILL NO. 222

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act amending the longevity bonus program and the
7 permanent fund dividend program; establishing an
8 annuity program; and providing for an effective
9 date."

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

11 * Section 1. FINDINGS AND PURPOSE. The legislature finds and declares
12 that

13 (1) it is in the public interest to continue the longevity bonus
14 program; however, as oil reserves decline over the years, it will become
15 increasingly difficult to provide the benefits of the longevity bonus
16 program through the general fund; as a result, that program must be phased
17 out over the years;

18 (2) it is appropriate that individuals save for their own re-
19 tirement, and it is also appropriate that the state establish both means
20 and incentives for Alaska residents to set aside retirement funds; accord-
21 ingly, it is a purpose of this legislation to create an annuity program,
22 and to encourage Alaskans to participate in that program by authorizing
23 supplements that would result in annuity payments that are larger than an
24 individual could earn through private investment of the permanent fund
25 dividend;

26 (3) many retired Alaskans have made their retirement plans in
27 reliance on the availability of both the existing longevity bonus and the
28 permanent fund dividend; accordingly, the legislature finds that it is
29 appropriate to continue both those programs for these individuals;

1 (4) the most suitable source of funds for the annuity program
2 created by this Act are those permanent fund earnings currently distributed
3 as dividends; therefore this Act applies one-half of the annual permanent
4 fund dividend of younger Alaskans to annuity accounts; in so doing, this
5 Act will promote wise stewardship of the permanent fund by giving each
6 participant a direct financial stake in its long-term profitability;

7 (5) neither the longevity bonus program, nor the annuity pro-
8 gram, should be viewed as a form of welfare; other state and federal pro-
9 grams are available to meet the basic necessities of life; and

10 (6) it is the intent of the legislature that the annuity program
11 will remain in effect even if the permanent fund dividend program is
12 repealed.

13 * Sec. 2. AS 43.23.005(c) is amended to read:

14 (c) A parent, guardian, or other authorized representative may
15 claim a permanent fund dividend on behalf of an unemancipated minor or
16 on behalf of an incompetent individual who is eligible to receive a
17 dividend [PAYMENT] under this section.

18 * Sec. 3. AS 43.23.005 is amended by adding a new subsection to read:

19 (d) A person who is eligible to receive a permanent fund divi-
20 dend under this section, or who is authorized to claim a dividend on
21 behalf of another under (c) of this section, shall receive half of the
22 dividend in cash and the other half shall be credited to the annuity
23 account of the eligible person. A person who is 65 years of age
24 before July 1, 1986, may only receive cash. If a person who is 65
25 years of age before July 1, 1986, qualifies to receive a longevity
26 bonus under AS 47.45 and has a gross income over \$25,000 in a single
27 year, as reported to the Internal Revenue Service, that person must
28 elect to receive either a longevity bonus or a permanent fund
29 dividend, but may not receive both for that year.

1 * Sec. 4. AS 43.23.015(a) is amended to read:

2 (a) The commissioner shall adopt regulations under the Adminis-
3 trative Procedure Act (AS 44.62) establishing the process for de-
4 termining the eligibility of individuals for permanent fund dividends.
5 The commissioner may require an individual to provide proof of eli-
6 gibility, and the commissioner may use other information available
7 from other state departments or agencies to determine the eligibility
8 of an individual.

9 * Sec. 5. AS 43.23.015(b) is amended to read:

10 (b) The department shall prescribe and furnish an application
11 form for claiming a permanent fund dividend. The application must
12 contain a statement of eligibility and a certification of residency in
13 substantially the following form:

14 I certify that

15 () I am a state resident on the date of this application
16 and I have been a state resident for at least six months immediately
17 preceding the date of this application; or

18 () (name), the individual on whose behalf I am applying,
19 is a state resident and has been a state resident for at least six
20 months immediately preceding the date of this application.

21 I understand that a false claim of residency to obtain a perma-
22 nent fund dividend for myself or for another is a criminal offense and
23 that if convicted I will forfeit future permanent fund dividends and
24 that I will lose or must repay all permanent fund dividends that have
25 been credited or paid to me, including any accrued interest in my
26 annuity account. I understand that this penalty is in addition to any
27 criminal penalties imposed.

28

29

(signature of individual, parent,

1 guardian, or other authorized
2 representative)

3 * Sec. 6. AS 43.23.035 is amended to read:

4 Sec. 43.23.035. PENALTIES AND ENFORCEMENT. (a) In addition to
5 any criminal penalties imposed by state law, if an individual is
6 convicted of a crime in connection with a false statement made in a
7 certification required under AS 43.23.015, and the conviction is not
8 reversed, that individual forfeits all permanent fund dividends cred-
9 ited or paid, together with any additional credits to that indi-
10 vidual's annuity account and is not eligible for a future permanent
11 fund dividend.

12 (b) If the commissioner determines that a cash [PERMANENT FUND]
13 dividend should not have been claimed by or paid to an individual, the
14 commissioner may use all collection procedures or remedies available
15 for collection of taxes under this title to recover the payment of a
16 permanent fund dividend that was improperly made. A notice of an
17 improperly paid dividend must be sent to the individual within 10
18 years after the improper payment. If notice is not sent within the
19 10-year period, proceedings may not be commenced in court for recovery
20 of the improper payment.

21 * Sec. 7. AS 43.23.035 is amended by adding a new subsection to read:

22 (c) If the commissioner determines that a permanent fund divi-
23 dend should not have been credited to an individual's annuity account,
24 the commissioner may, after notice and opportunity for hearing, direct
25 the commissioner of administration to debit the individual's annuity
26 account for the amount wrongly credited. If the credit is the fault
27 of the individual, the debit must be made within 10 years. If the
28 credit is the fault of the state, the debit must be made within three
29 years.

1 * Sec. 8. AS 43.23.055 is amended to read:

2 Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

3 (1) annually pay permanent fund dividends from the dividend
4 fund;

5 (2) adopt regulations under the Administrative Procedure
6 Act (AS 44.62) that establish procedures and time limits for claiming
7 a permanent fund dividend or an annuity share; the department shall
8 set the time limit for applications for permanent fund dividends so
9 that the number of eligible applicants is determined by October 1 of
10 the year for which the dividend is declared and permanent fund
11 dividends for a year are paid before April 30 of the year following
12 that year;

13 (3) adopt regulations under the Administrative Procedure
14 Act (AS 44.62) that establish procedures and time limits for an indi-
15 vidual upon emancipation or upon reaching majority to apply for perma-
16 nent fund dividends not credited or received during minority because
17 the parent, guardian, or other authorized representative did not apply
18 on behalf of the individual; [AND]

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

23 (5) provide the commissioner of administration with infor-
24 mation necessary to maintain individual annuity account records and
25 administer the annuity program.

26 * Sec. 9. AS 43.23.065 is amended to read:

27 Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. Fifty
28 percent of a cash [THE ANNUAL] permanent fund dividend payment [PAY-
29 ABLE TO AN INDIVIDUAL] is exempt from levy, execution, garnishment,

1 attachment, or any other remedy for the collection of debt. This
2 exemption applies to an eligible individual's permanent fund dividend
3 both before and after payment is made to the individual. An exemption
4 is not available under this section for cash permanent fund dividend
5 payments [DIVIDENDS] taken to satisfy (1) child support obligations
6 required by court order or decision of the child support enforcement
7 agency under AS 47.23.140 - 47.23.220; (2) a debt owed by an eligible
8 individual to an agency of the state, unless the debt is contested and
9 an appeal is pending, or the time limit for filing an appeal has not
10 expired; or (3) court ordered restitution under AS 12.55.045 -
11 12.55.051 or 12.55.100. A child support obligation under (1) of this
12 section has priority over a debt owed to an agency of the state, and a
13 permanent fund dividend may not be taken to satisfy a debt under (2)
14 of this section until any portion of the dividend necessary to satisfy
15 a child support obligation has been taken.

16 * Sec. 10. AS 43.23.075 is amended to read:

17 Sec. 43.23.075. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) In
18 determining the eligibility of an individual under a public assistance
19 program administered by the Department of Health and Social Services
20 in which eligibility for assistance is based on financial need, the
21 Department of Health and Social Services may not consider a permanent
22 fund dividend as income or resources received by the recipient of
23 public assistance or by a member of the recipient's household unless
24 required to do so by federal law or regulation. The Department of
25 Health and Social Services shall notify all recipients of public
26 assistance of the effects of [RECEIVING] a permanent fund dividend
27 credit or cash payment.

28 (b) An individual who is denied medical assistance under 42
29 U.S.C. 1396 - 1396p (Social Security Act, Title XIX) solely because of

1 the credit or receipt of a permanent fund dividend by the individual
2 or by a member of the individual's household is eligible for state-
3 funded medical assistance under the general relief assistance program
4 (AS 47.25.120 - 47.25.300). The individual is entitled to receive,
5 for a period not to exceed four months, the same level of medical
6 assistance as the individual would have received under 42 U.S.C.
7 1396 - 1396p (Social Security Act, Title XIX) had there been no perma-
8 nent fund dividend program.

9 (c) An individual who is denied assistance solely because perma-
10 nent fund dividends credited to or received by the individual or by a
11 member of the individual's household are counted as income or re-
12 sources under federal law or regulation is eligible for cash assis-
13 tance under the general relief assistance program (AS 47.25.120 -
14 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual
15 is entitled to receive, for a period not to exceed four months, the
16 same amount as the individual would have received under other public
17 assistance programs had there been no permanent fund dividend program.
18 * Sec. 11. AS 43.23.095(6) is repealed and reenacted to read:

19 (6) "permanent fund dividend" means a credit to an annuity
20 account or a cash payment under this chapter;

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

22 ARTICLE 2. ANNUITY PROGRAM.

23 Sec. 43.23.110. ANNUITY INVESTMENT FUND. (a) The annuity
24 investment fund is established as a separate fund in the state trea-
25 sury. Notwithstanding AS 37.13.145, an amount equal to the portion of
26 permanent fund dividends taken as annuity credits under this chapter
27 shall be annually transferred from the dividend fund to the annuity
28 investment fund.

29 (b) The legislature may appropriate either general funds, or

1 earnings of the undistributed income account in the Alaska permanent
2 fund, to the annuity investment fund. Funds appropriated under this
3 subsection shall be allocated to the individual annuity accounts of
4 those who are eligible to receive a dividend for that year. The
5 allocation shall be made in the following manner:

6 (1) a credit will be made to the account of each individual
7 who is at least 18 years old;

8 (2) the credit for each person from the age of 18 through
9 age 35 is the base amount; the size of the base amount is determined
10 according to the amount of the appropriation;

11 (3) the credit for persons over the age of 35 is the base
12 amount, increased for each year of age over 35 up to and including the
13 age of 65; the incremental increase for each year of age is a percent-
14 age over the credit for the prior year of age; that percentage shall
15 be established with due regard for historical and projected permanent
16 fund returns on investment.

17 (c) Money in the annuity investment fund shall be invested by
18 the commissioner of revenue in investments authorized under AS 39.-
19 35.110. The commissioner of administration shall credit individual
20 annuity accounts with earnings at a rate equal to the rate of interest
21 earned by the annuity investment fund.

22 (d) The legislature may annually appropriate to the Department
23 of Administration an amount sufficient to pay monthly annuity payments
24 for the subsequent fiscal year under AS 43.23.130 from the annuity
25 investment fund. Funds appropriated under this subsection shall be
26 transferred from the annuity investment fund to the Department of
27 Administration in order to meet the current demands of the annuity
28 program.

29 (e) The legislature may annually appropriate from the annuity

1 investment fund an amount sufficient to administer the annuity pro-
2 gram. Any costs of administration funded under this subsection shall
3 be allocated equitably among all individual annuity accounts.

4 (f) Notwithstanding AS 39.35.110 or (c) of this section, the
5 commissioner of revenue may invest all or part of the annuity invest-
6 ment fund in commercial insurance contracts.

7 Sec. 43.23.120. ANNUITY PROGRAM. (a) The annuity program is
8 administered by the commissioner of administration. The commissioner
9 of administration shall adopt regulations necessary to implement the
10 annuity program.

11 (b) The commissioner of administration shall maintain records of
12 individual annuity accounts and make annuity payments under AS 43.23.-
13 130.

14 Sec. 43.23.130. PAYMENT OF ANNUITIES. (a) An individual with
15 one or more annuity credits may receive an annuity upon reaching the
16 age of 65.

17 (b) An annuity under this section is a monthly payment during
18 the life of the annuitant. The amount of the monthly payment shall be
19 based upon the principal and accrued interest in the person's annuity
20 account and shall be paid in the form of a straight life annuity. The
21 size of the annuity may not vary on account of the individual's sex.

22 (c) An individual need not be a resident of the state to be
23 eligible to received an annuity payment from the individual's account.

24 (d) Except as provided in (e) of this section, an annuity
25 account may not be assigned, sold, or otherwise transferred from one
26 individual to another. The right to receive an annuity under this
27 section terminates upon the death of the person who is eligible for
28 the annuity.

29 (e) If a person dies before age 65, a lump sum payment shall,

1 subject to appropriation, be paid to the surviving spouse by right of
2 survivorship unless a different beneficiary was designated. When no
3 spouse survives and no beneficiary was designated, the lump sum shall
4 be paid to the decedent's estate. If a person leaves the state
5 permanently before age 65, a lump sum payment may, subject to
6 appropriation, be paid to that person. The lump sum payment shall
7 include all permanent fund dividend contributions made by the
8 individual, together with interest, but shall not include any credits
9 to the individual's account made pursuant to AS 43.23.110(b), or
10 interest on those credits.

11 (f) An individual does not receive a vested property right in an
12 annuity payment until that payment is made. Notwithstanding this
13 section, the state is not obligated to provide annuity payments for
14 annuity credits granted under AS 43.23.005.

15 * Sec. 13. AS 47.45.010(a) is amended to read:

16 (a) A person who is 65 years of age or over, who resides in the
17 state for at least one year immediately preceding application for a
18 longevity bonus under this chapter may apply to the commissioner of
19 administration for qualification to receive a monthly bonus [OF \$250].

20 * Sec. 14. AS 47.45.010 is amended by adding a new subsection to read:

21 (d) If a person who qualifies to receive a bonus under this
22 chapter is 65 years of age before July 1, 1986, and has a gross income
23 over \$25,000 in a single year, as reported to the Internal Revenue
24 Service, that person must elect to receive either a bonus under this
25 chapter or a permanent fund dividend under AS 43.23, but may not
26 receive both for that year.

27 * Sec. 15. AS 47.45 is amended by adding a new section to read:

28 Sec. 47.45.015. AMOUNT OF BONUS. (a) Except as provided in (b)
29 of this section, the monthly longevity bonus is equal to \$250, minus

1 the maximum possible annuity for a person 65 years of age under the
2 annuity program (AS 43.23.110 - 43.23.130), as determined by the
3 commissioner of administration.

4 (b) A person who is 65 years of age before July 1, 1986, who
5 elects to receive a longevity bonus, is entitled to the full longevity
6 bonus payment without reduction for the annuity program.

7 * Sec. 16. AS 47.45.070 is amended to read:

8 Sec. 47.45.070. UNQUALIFIED PERSONS. An unqualified person is
9 one who

10 (1) does not meet the age or residence requirements as
11 provided for under this chapter;

12 (2) meets the age and residence requirements of this chap-
13 ter but either is confined in a state or federal mental health insti-
14 tution or facility and is certified by the state as unable to manage
15 personal affairs, or resides in a nursing home as that term is defined
16 in AS 08.70.180; however, if that person, at the time of commitment or
17 commencement of residence, provided the principal support of a spouse,
18 the commissioner of administration may determine to pay the confined
19 person's bonus to the person's spouse until the spouse is qualified
20 for a bonus;

21 (3) is otherwise qualified but confined in a penal or
22 correctional institution or facility; upon completion of sentence or
23 upon the conferral of a pardon, parole or probation, the person may
24 make application; confinement outside the state shall be considered as
25 residence in the state if a person was convicted and sentenced from a
26 court in Alaska; revocation of parole or probation shall be cause for
27 immediate disqualification until release from confinement is again
28 effected;

29 (4) voluntarily leaves the state and remains absent from

1 the state for a continuous period of more than 180 days.

2 * Sec. 17. AS 47.45.090(a) is amended to read:

3 (a) The Alaska longevity bonus fund is created for the purpose
4 of paying the monthly bonuses provided for in this chapter. The
5 commissioner of revenue shall annually transfer an amount sufficient
6 to fund the longevity bonus program from the undistributed income
7 account in the Alaska permanent fund (AS 37.13.145) to the Alaska
8 longevity bonus fund. The fund consists only of money transferred to
9 the fund from the undistributed income account under this section
10 [MADE AVAILABLE BY APPROPRIATIONS OF THE LEGISLATURE FROM THE GENERAL
11 FUND], and income and interest derived from the investment of money of
12 the longevity bonus fund.

13 * Sec. 18. Section 11, ch. 38, SLA 1984 is amended to read:

14 Sec. 11. Sections 7 and 9 of this [THIS] Act [AND AS 47.45] are
15 repealed June 30, 1985.

16 * Sec. 19. AS 43.23.045(c) is repealed.

17 * Sec. 20. This Act applies only to permanent fund dividends for years
18 beginning after December 31, 1985. Notwithstanding the amendments to
19 AS 43.23 made by this Act, permanent fund dividends for 1985 and prior
20 years shall be made under the law as it existed before the effective date
21 of this Act.

22 * Sec. 21. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).