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1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

CS FOR SENATE BILL NO. 56 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to a longevity bonus; and providing
7 for an effective date."

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

9 * Section 1. FINDINGS AND PURPOSE. The legislature finds and declares
10 that

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

16 (2) it is appropriate that individuals save for their own re-
17 tirement, and it is also appropriate that the state establish both means
18 and incentives for Alaska residents to set aside retirement funds; accord-
19 ingly, it is a purpose of this legislation to create an annuity program;

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

24 (4) the most suitable source of funds for the annuity program
25 created by this Act are those permanent fund earnings currently distributed
26 as dividends; therefore this Act provides that the annual permanent fund
27 dividend of younger Alaskans may be applied to annuity accounts unless the
28 individual alternatively elects to receive cash; in so doing, this Act will
29 promote wise stewardship of the permanent fund by giving each participant a

1 direct financial stake in its long-term profitability; and

2 (5) neither the longevity bonus program, nor the annuity pro-
3 gram, should be viewed as a form of welfare; other state and federal pro-
4 grams are available to meet the basic necessities of life, and amounts
5 received by an individual under this Act are not calculated on the basis of
6 need.

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

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

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

13 (d) A person who is eligible to receive a permanent fund divi-
14 dend under this section, or who is authorized to claim a dividend on
15 behalf of another under (c) of this section, may elect to receive the
16 dividend either in cash or as an annuity credit. Alternatively, a
17 person may elect to receive 25 percent, 50 percent, or 75 percent of
18 the dividend in cash and the remainder as an annuity credit. A person
19 who is 65 years of age before January 1, 1986, may only receive cash
20 and may not elect to receive an annuity credit.

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

22 (a) The commissioner shall adopt regulations under the Adminis-
23 trative Procedure Act (AS 44.62) establishing the process for de-
24 termining the eligibility of individuals for permanent fund dividends.
25 The commissioner may require an individual to provide proof of eli-
26 gibility, and the commissioner may use other information available
27 from other state departments or agencies to determine the eligibility
28 of an individual.

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

1 (b) The department shall prescribe and furnish an application
2 form for claiming a permanent fund dividend. The application must
3 contain a statement of eligibility and a certification of residency in
4 substantially the following form:

5 I certify that

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

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

12 I understand that a false claim of residency to obtain a perma-
13 nent fund dividend for myself or for another is a criminal offense and
14 that if convicted I will forfeit future permanent fund dividends and
15 that I will lose or must repay all permanent fund dividends that have
16 been credited or paid to me. I understand that this penalty is in
17 addition to any criminal penalties imposed.

18 _____
19 (signature of individual, parent,
20 guardian, or other authorized
21 representative)

22 * Sec. 6. AS 43.23.015(e) is amended to read:

23 (e) If a public agency claims a [PERMANENT FUND] dividend on
24 behalf of an individual under this section, the public agency shall
25 elect 100 percent cash under AS 43.23.005(d) and hold the dividend in
26 trust for the individual. Money held in trust under this subsection
27 shall be invested by the commissioner in accordance with AS 37.10.070.

28 * Sec. 7. AS 43.23.015(f) is amended to read:

29 (f) A minor or an incompetent individual may not maintain a

1 claim against the state or an officer or employee of the state based
2 either on the manner in which the parent, guardian, or authorized
3 representative other than a public agency of the state managed or
4 disposed of permanent fund dividends received on behalf of the minor
5 or incompetent, or an election made or not made on that individual's
6 behalf under AS 43.23.005(d) [INDIVIDUAL].

7 * Sec. 8. AS 43.23.015 is amended by adding a new subsection to read:

8 (i) The permanent fund dividend application form shall be pre-
9 pared to allow an applicant, other than a person who is exempt under
10 AS 47.45.015(b), to elect to receive the dividend either in cash or as
11 an annuity credit.

12 * Sec. 9. AS 43.23.035 is amended to read:

13 Sec. 43.23.035. PENALTIES AND ENFORCEMENT. (a) In addition to
14 any criminal penalties imposed by state law, if an individual is
15 convicted of a crime in connection with a false statement made in a
16 certification required under AS 43.23.015, and the conviction is not
17 reversed, that individual forfeits all permanent fund dividends cred-
18 ited or paid, together with any interest credited to that individual's
19 annuity account and is not eligible for a future permanent fund divi-
20 dend.

21 (b) If the commissioner determines that a cash [PERMANENT FUND]
22 dividend should not have been claimed by or paid to an individual, the
23 commissioner may use all collection procedures or remedies available
24 for collection of taxes under this title to recover the payment of a
25 permanent fund dividend that was improperly made. A notice of an
26 improperly paid dividend must be sent to the individual within 10
27 years after the improper payment. If notice is not sent within the
28 10-year period, proceedings may not be commenced in court for recovery
29 of the improper payment.

1 * Sec. 10. AS 43.23.035 is amended by adding a new subsection to read:
2 (c) If the commissioner determines that a permanent fund divi-
3 dend should not have been credited to an individual's annuity account,
4 the commissioner may, after notice and opportunity for hearing, direct
5 the commissioner of administration to debit the individual's annuity
6 account for the amount wrongly credited. If the credit is the fault
7 of the individual, the debit must be made within 10 years. If the
8 credit is the fault of the state, the debit must be made within three
9 years.

10 * Sec. 11. AS 43.23.055 is amended to read:

11 Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall
12 (1) annually make payments to individuals who are 65 years
13 of age before January 1, 1986, and to individuals who elect to receive
14 cash under AS 43.23.005(d) [PAY PERMANENT FUND DIVIDENDS FROM THE
15 DIVIDEND FUND];

16 (2) adopt regulations under the Administrative Procedure
17 Act (AS 44.62) that establish procedures and time limits for claiming
18 a permanent fund dividend or for electing an annuity credit; the de-
19 partment shall set the time limit for applications for permanent fund
20 dividends so that the number of eligible applicants is determined by
21 October 1 of the year for which the dividend is declared and permanent
22 fund dividends for a year are paid before April 30 of the year follow-
23 ing that year;

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

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

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

8 * Sec. 12. AS 43.23.065 is amended to read:

9 Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. Fifty
10 percent of a cash [THE ANNUAL] permanent fund dividend payment [PAY-
11 ABLE TO AN INDIVIDUAL] is exempt from levy, execution, garnishment,
12 attachment, or any other remedy for the collection of debt. This
13 exemption applies to an eligible individual's permanent fund dividend
14 both before and after payment is made to the individual. An exemption
15 is not available under this section for cash permanent fund dividend
16 payments [DIVIDENDS] taken to satisfy (1) child support obligations
17 required by court order or decision of the child support enforcement
18 agency under AS 47.23.140 - 47.23.220; (2) a debt owed by an eligible
19 individual to an agency of the state, unless the debt is contested and
20 an appeal is pending, or the time limit for filing an appeal has not
21 expired; or (3) court ordered restitution under AS 12.55.045 - 12.55.-
22 051 or 12.55.100. A child support obligation under (1) of this sec-
23 tion has priority over a debt owed to an agency of the state, and a
24 permanent fund dividend may not be taken to satisfy a debt under (2)
25 of this section until any portion of the dividend necessary to satisfy
26 a child support obligation has been taken.

27 * Sec. 13. AS 43.23.065 is amended by adding new subsections to read:

28 (b) The department shall require an individual to take 100
29 percent of the permanent fund dividend in cash if the department

1 receives a levy, execution, garnishment, attachment or other legal
2 remedy for the collection of a past due debt described in (a)(1) or
3 (2) of this section.

4 (c) The courts of this state may, as a condition of any civil
5 judgment or restitution order under AS 12.55.045 - 12.55.051 or 12.-
6 55.100, require the defendant to take the defendant's permanent fund
7 dividend in cash.

8 * Sec. 14. AS 43.23.075 is amended to read:

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

20 (b) An individual who is denied medical assistance under 42
21 U.S.C. 1396 - 1396p (Social Security Act, Title XIX) solely because of
22 the credit or receipt of a permanent fund dividend by the individual
23 or by a member of the individual's household is eligible for state-
24 funded medical assistance under the general relief assistance program
25 (AS 47.25.120 - 47.25.300). The individual is entitled to receive,
26 for a period not to exceed four months, the same level of medical
27 assistance as the individual would have received under 42 U.S.C.
28 1396 - 1396p (Social Security Act, Title XIX) had there been no perma-
29 nent fund dividend program.

1 (c) An individual who is denied assistance solely because perma-
2 nent fund dividends credited to or received by the individual or by a
3 member of the individual's household are counted as income or re-
4 sources under federal law or regulation is eligible for cash assis-
5 tance under the general relief assistance program (AS 47.25.120 -
6 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual
7 is entitled to receive, for a period not to exceed four months, the
8 same amount as the individual would have received under other public
9 assistance programs had there been no permanent fund dividend program.

10 * Sec. 15. AS 43.23.095(6) is repealed and reenacted to read:

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

13 * Sec. 16. AS 43.23 is amended by adding new sections to read:

14 ARTICLE 2. ANNUITY PROGRAM.

15 Sec. 43.23.110. ANNUITY INVESTMENT FUND. (a) The annuity
16 investment fund is established as a separate fund in the state trea-
17 sury. The annuity investment fund consists of money transferred from
18 the dividend fund and income earned by the annuity investment fund.
19 Notwithstanding AS 37.13.145, an amount equal to the permanent fund
20 dividends taken as annuity credits under this chapter shall be
21 annually transferred from the dividend fund to the annuity investment
22 fund.

23 (b) Money in the annuity investment fund shall be invested by
24 the commissioner of revenue in investments authorized under AS 39.-
25 35.110. The commissioner of administration shall credit the net
26 income of the annuity investment fund to the individual annuity ac-
27 counts.

28 (c) The legislature may annually appropriate to the Department
29 of Administration an amount sufficient to pay monthly annuity payments

1 for the subsequent fiscal year under AS 43.23.130 from the annuity
2 investment fund. Funds appropriated under this subsection shall be
3 transferred from the annuity investment fund to the Department of
4 Administration in order to meet the current demands of the annuity
5 program.

6 (d) The legislature may annually appropriate from the annuity
7 investment fund an amount sufficient to administer the annuity pro-
8 gram. Any costs of administration funded under this subsection shall
9 be allocated equitably among all individual annuity accounts.

10 (e) Notwithstanding AS 39.35.110 or (b) of this section, the
11 commissioner of revenue may invest all or part of the annuity invest-
12 ment fund in commercial insurance contracts purchased from insurance
13 companies that have a Best's policyholders' rating of A or better and
14 belong to Best's financial size Group XV at the time of purchase.

15 Sec. 43.23.120. ANNUITY PROGRAM. (a) The annuity program is
16 administered by the commissioner of administration. The commissioner
17 of administration shall adopt regulations necessary to implement the
18 annuity program.

19 (b) The commissioner of administration shall maintain records of
20 individual annuity accounts and make annuity payments under AS 43.23.-
21 130.

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

25 (b) An annuity under this section is a monthly payment based
26 upon the principal and accrued interest in the person's annuity ac-
27 count. An annuity shall be paid as a straight life annuity or other
28 payment plan authorized by the commissioner of the Department of
29 Administration. The size of the annuity may not vary on account of

1 the individual's sex.

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

4 (d) Except as provided in (b) and (e) of this section, an annu-
5 ity account may not be assigned, sold, or otherwise transferred from
6 one individual to another.

7 (e) If a person elects to credit a permanent fund dividend to an
8 annuity account in a particular year, that person may make an irrevoc-
9 cable choice regarding death benefits with respect to that credit. If
10 a person dies before age 65 and that person has selected death bene-
11 fits in at least one year, a lump sum payment shall, subject to appro-
12 priation, be paid to the surviving spouse by right of survivorship
13 unless a different beneficiary was designated. When no spouse sur-
14 vives and no beneficiary is designated, the lump sum shall be paid to
15 the decedent's estate. The lump sum payment includes all dividends
16 credited to the person's annuity account in years in which death
17 benefits were selected and interest on those dividends. Dividends
18 credited to a person's annuity account in years for which death bene-
19 fits were not selected and interest on those dividends shall, if the
20 person dies before age 65, be distributed equitably among the annuity
21 accounts of all individuals for which death benefits were not select-
22 ed.

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

27 * Sec. 17. AS 47.45.010(a) is amended to read:

28 (a) A person who is 65 years of age or over, who resides in the
29 state for at least one year immediately preceding application for a

1 longevity bonus under this chapter may apply to the commissioner of
2 administration for qualification to receive a monthly bonus [OF \$250].

3 * Sec. 18. AS 47.45 is amended by adding a new section to read:

4 Sec. 47.45.015. AMOUNT OF BONUS. (a) Except as provided in (b)
5 of this section, the monthly longevity bonus is equal to \$250, minus
6 the maximum possible straight life annuity for a person 65 years of
7 age under the annuity program (AS 43.23.110 - 43.23.130), as deter-
8 mined by the commissioner of administration.

9 (b) A person who is 65 years of age before January 1, 1986, is
10 entitled to the full longevity bonus payment without reduction for the
11 annuity program.

12 * Sec. 19. AS 47.45.070 is amended to read:

13 Sec. 47.45.070. UNQUALIFIED PERSONS. An unqualified person is
14 one who

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

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

26 (3) is otherwise qualified but confined in a penal or
27 correctional institution or facility; upon completion of sentence or
28 upon the conferral of a pardon, parole or probation, the person may
29 make application; confinement outside the state shall be considered as

1 residence in the state if a person was convicted and sentenced from a
2 court in Alaska; revocation of parole or probation shall be cause for
3 immediate disqualification until release from confinement is again
4 effected;

5 (4) voluntarily leaves the state and remains absent from
6 the state for a continuous period of more than 180 days.

7 * Sec. 20. Section 11, ch. 38, SLA 1984 is amended to read:

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

10 * Sec. 21. AS 43.23.045(c) is repealed.

11 * Sec. 22. This Act applies only to permanent fund dividends for years
12 beginning after December 31, 1985. Notwithstanding the amendments to
13 AS 43.23 made by this Act, permanent fund dividends for 1985 and prior
14 years shall be made under the law as it existed before the effective date
15 of this Act.

16 * Sec. 23. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).