

Original sponsors: Donley, Boucher,
Boyer, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 34 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing durational residency require-
7 ments, not to exceed two years, for receipt of the
8 permanent fund dividend and receipt of benefits under
9 the longevity bonus program; and providing for an
10 effective date."

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

12 * Section 1. FINDINGS. (a) The legislature finds with respect to the
13 permanent fund dividend program that

14 (1) compared with other states, Alaska has one of the highest
15 ratios of transients to permanent state residents;

16 (2) a significant number of people from other states come to
17 Alaska to work in temporary or seasonal jobs or on short-term projects;

18 (3) because of the large number of transients it is very diffi-
19 cult for the state to determine whether a person is actually a resident
20 with the intent to remain in the state;

21 (4) the permanent fund dividend program is unique to the state
22 and provides generous benefits;

23 (5) the generous nature of this benefit program creates an
24 inducement for people to claim residency inaccurately;

25 (6) a two-year residency requirement is a reasonable way to
26 determine bona fide residency for the purposes of eligibility for this
27 benefit program;

28 (7) a two-year residency requirement will not discourage mi-
29 gration to the state or otherwise interfere with interstate travel;

1 (8) this program does not involve a basic right under the state
2 or federal constitutions or a basic necessity of life;

3 (9) a two-year residency requirement will more accurately indi-
4 cate actual domicile and the intent to remain a resident than the require-
5 ment under current law; and

6 (10) the interest of the state in determining bona fide residence
7 for purposes of this program is at least equal to the interest recognized
8 in *Andress v. Baxter*, U.S. District Court for the District of Alaska, No.
9 A82-307 Civ., September 8, 1983.

10 (b) The legislature finds with respect to the longevity bonus program
11 that

12 (1) the longevity bonus is immediately payable to an applicant
13 upon acceptance into the program;

14 (2) acceptance into the program is primarily based on a state-
15 ment from the applicant that the applicant is a resident for the purposes
16 of eligibility for this benefit program and that the applicant intends to
17 remain a resident of the state;

18 (3) a two-year residency requirement will more accurately indi-
19 cate actual domicile and the intent to remain a resident than the require-
20 ment under current law;

21 (4) the longevity bonus program is unique to the state and
22 provides generous benefits;

23 (5) the generous nature of this benefit program creates an
24 inducement for people to claim residency inaccurately;

25 (6) a two-year residency requirement is a reasonable way to
26 determine bona fide residency for the purposes of eligibility for this
27 benefit program;

28 (7) the two-year residency requirement will not discourage
29 migration to the state or otherwise interfere with interstate travel;

1 (8) this program does not involve a basic right under the state
2 or federal constitutions or a basic necessity of life; and

3 (9) the interest of the state in determining bona fide residence
4 for purposes of this program is at least equal to the interest recognized
5 in *Andress v. Baxter*, U.S. District Court for the District of Alaska, No.
6 A82-307 Civ., September 8, 1983.

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

8 (a) An individual is eligible to receive one permanent fund
9 dividend each year in an amount to be determined under AS 43.23.025 if
10 the individual applies to the department, and if

11 (1) on the date of application the individual is a state
12 resident;

13 (2) the individual was a state resident for a period of at
14 least 24 [SIX] consecutive months immediately preceding April 1 of the
15 current dividend year; and

16 (3) the individual has been physically present in the state
17 at some time during the period beginning July 1 two years before the
18 date of application and ending on the date of application.

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

20 (e) If a court finds the durational residency requirement under
21 (a)(2) of this section is invalid and no appeal is pending, the resi-
22 dency requirement is one year. If a court finds the one year resi-
23 dency requirement is invalid and no appeal is pending, the residency
24 requirement is the longest duration permitted by law. The department
25 shall change the statement of eligibility under AS 43.23.015(b) as
26 necessary to conform to this subsection.

27 * Sec. 4. AS 43.23.015(b) is amended to read:

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

1 contain a statement of eligibility and a certification of residency in
2 substantially the following form:

3 I certify that

4 () I am a state resident on the date of this application, I have
5 been a state resident for at least 24 [SIX] months immediately preced-
6 ing April 1 of the current dividend year, and I have been physically
7 present in the State of Alaska at some time during the period begin-
8 ning July 1 two years before the date of application and ending on the
9 date of this application; or

10 () (name), the individual on whose behalf I am applying, is a
11 state resident on the date of this application, has been a state
12 resident for at least 24 [SIX] months immediately preceding April 1 of
13 the current dividend year, and has been physically present in the
14 State of Alaska at some time during the period beginning July 1 two
15 years before the date of application and ending on the date of this
16 application.

17 I understand that a false claim of eligibility to obtain a perma-
18 nent fund dividend for myself or for another is a criminal offense,
19 that if convicted I will forfeit future dividends, and that I must
20 repay all dividends that have been paid to me. I understand that if I
21 wilfully misrepresent, exercise gross negligence, or recklessly disre-
22 gard a material fact regarding my eligibility for a permanent fund
23 dividend I will forfeit the dividend, be subject to a civil fine of up
24 to \$5,000, and lose my eligibility for the next five dividends. I
25 understand that these penalties are in addition to any criminal pen-
26 alties imposed.

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(signature of individual,
parent, guardian, or other

1 authorized representative)

2 * Sec. 5. AS 47.45.010(a) is amended to read:

3 (a) A person who is 65 years of age or over, who resides in the
4 state for at least two years [ONE YEAR] immediately preceding applica-
5 tion for a longevity bonus under this chapter may apply to the commis-
6 sioner of administration for qualification to receive a monthly bonus
7 of \$250.

8 * Sec. 6. AS 47.45.010 is amended by adding a new subsection to read:

9 (d) If a court finds the durational residency requirement under
10 (a) of this section is invalid and no appeal is pending, the residency
11 requirement is one year. If a court finds the one year residency
12 requirement is invalid and no appeal is pending, the residency re-
13 quirement is the longest duration permitted by law.

14 * Sec. 7. Notwithstanding the amendments to AS 43.23 made by secs. 2 -
15 4 of this Act, if an individual received a permanent fund dividend for 1990
16 the individual's eligibility to receive a dividend for 1991 shall be de-
17 termined under the law as it existed before those amendments.

18 * Sec. 8. Notwithstanding the amendment to AS 47.45 made by secs. 5 and
19 6 of this Act, if an individual received a longevity bonus payment for any
20 month during 1990, the individual's eligibility to receive bonus payments
21 during 1991 shall be determined under the law as it existed before that
22 amendment.

23 * Sec. 9. This Act takes effect January 1, 1991.