

CS FOR SENATE BILL NO. 327 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 1/31/92
Referred: Finance

Sponsor(s): SENATORS CRAFT, Pourchot

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to permanent fund dividends; and providing for an effective date."

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

3 * **Section 1.** INTENT. The change to the definition of residency in sec. 13 of this Act only clarifies
 4 what the legislature has always intended the definition to be.

5 * **Sec. 2.** AS 34.45.370 is amended by adding a new subsection to read:

6 (c) A permanent fund dividend that is received by the state as abandoned property shall
 7 be deposited into the dividend fund established under AS 43.23.045 and may be expended or
 8 distributed according to regulations adopted by the commissioner of revenue.

9 * **Sec. 3.** AS 37.05.180 is amended to read:

10 Sec. 37.05.180. TWO-YEAR LIMITATION ON PAYMENT OF WARRANTS. A [NO]
 11 warrant upon the state treasury may not be [IS] paid unless presented at the office of the
 12 commissioner of revenue within two years of the date of its issuance. A warrant [ALL
 13 WARRANTS] not presented within that time is [ARE] considered paid and money held at the
 14 expiration of that time in a special fund or account for the payment of the warrant shall be

1 transferred to the general fund, except where transfer is prohibited by the federal government for
2 state participation in a federal program or the warrant represents payment of a permanent
3 fund dividend. Money held for the payment of a permanent fund dividend warrant shall
4 be retained in or transferred to the dividend fund established under AS 43.23.045 and may
5 be expended or distributed according to regulations adopted by the commissioner of
6 revenue.

7 * Sec. 4. AS 43.23.005(a) is amended to read:

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

10 (1) the individual applies to the department;

11 (2) [, AND IF (1)] on the date of application the individual is a state resident;

12 (3) [(2)] the individual was a state resident for [A PERIOD OF] at least the
13 calendar year [12 CONSECUTIVE MONTHS] immediately preceding January 1 [APRIL 1]
14 of the current dividend year; [AND]

15 (4) [(3)] the individual has been physically present in the state at some time
16 during the prior [PERIOD BEGINNING JULY 1] two calendar years before the current
17 dividend year; and

18 (5) the individual is

19 (A) a citizen of the United States;

20 (B) an alien lawfully admitted for permanent residence in the United
21 States;

22 (C) an alien with refugee status under federal law; or

23 (D) an alien that has been granted asylum under federal law [DATE
24 OF APPLICATION AND ENDING ON THE DATE OF APPLICATION].

25 * Sec. 5. AS 43.23.005(c) is amended to read:

26 (c) A parent, guardian, or other authorized representative may claim a permanent fund
27 dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent
28 individual who is eligible to receive a payment under this section. Notwithstanding (a)(3) and
29 (4) of this section, a minor who is under two years of age on January 1 of the current
30 dividend year is eligible for the dividend if on the date of application at least one of the
31 minor's custodial parents or guardians is eligible for a dividend for that year, or the minor

1 is in the custody of the state.

2 * Sec. 6. AS 43.23.005(d) is amended to read:

3 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual who has been
4 convicted of a felony is not eligible for a permanent fund dividend for a year when, during all
5 or part of the previous calendar year [FISCAL YEAR ENDING JUNE 30 OF THE CURRENT
6 YEAR], as a result of the conviction, the individual is incarcerated. [THIS SUBSECTION
7 APPLIES WHETHER OR NOT THE INDIVIDUAL HAS APPLIED FOR THE DIVIDEND.]

8 * Sec. 7. AS 43.23.005(f) is amended to read:

9 (f) In a time of national military emergency, the commissioner may waive the
10 requirement of (a)(4) [(a)(3)] of this section for an individual absent from the state under military
11 orders while serving in the armed forces of the United States, or for the spouse and dependents
12 of that individual.

13 * Sec. 8. AS 43.23.015(a) is amended to read:

14 (a) The commissioner shall adopt regulations under the Administrative Procedure Act
15 (AS 44.62) for determining the eligibility of individuals for permanent fund dividends. The
16 commissioner may require an individual to provide proof of eligibility, and the commissioner
17 may use other information available from other state departments or agencies to determine the
18 eligibility of an individual. The commissioner shall consider all relevant circumstances in
19 determining the eligibility of an individual. However, the residency of an individual's
20 spouse may not be the only factor relied upon by the commissioner in determining the
21 residency of the individual.

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

23 (b) The department shall prescribe and furnish an application form for claiming a
24 permanent fund dividend. The application must include notice of the penalties provided for
25 under AS 43.23.035 and contain a statement of eligibility and a certification of residency. [IN
26 SUBSTANTIALLY THE FOLLOWING FORM:

27 I CERTIFY THAT

28 () I AM A STATE RESIDENT ON THE DATE OF THIS APPLICATION, I HAVE
29 BEEN A STATE RESIDENT FOR AT LEAST 12 MONTHS IMMEDIATELY
30 PRECEDING APRIL 1 OF THE CURRENT DIVIDEND YEAR, AND I HAVE BEEN
31 PHYSICALLY PRESENT IN THE STATE OF ALASKA AT SOME TIME DURING

1 THE PERIOD BEGINNING JULY 1 TWO YEARS BEFORE THE DATE OF
2 APPLICATION AND ENDING ON THE DATE OF THIS APPLICATION UNLESS
3 THIS REQUIREMENT HAS BEEN WAIVED UNDER AS 43.23.005(f); OR

4 () (NAME), THE INDIVIDUAL ON WHOSE BEHALF I AM APPLYING, IS A
5 STATE RESIDENT ON THE DATE OF THIS APPLICATION, HAS BEEN A STATE
6 RESIDENT FOR AT LEAST 12 MONTHS IMMEDIATELY PRECEDING APRIL 1 OF
7 THE CURRENT DIVIDEND YEAR, AND HAS BEEN PHYSICALLY PRESENT IN
8 THE STATE OF ALASKA AT SOME TIME DURING THE PERIOD BEGINNING
9 JULY 1 TWO YEARS BEFORE THE DATE OF APPLICATION AND ENDING ON
10 THE DATE OF THIS APPLICATION UNLESS THIS REQUIREMENT HAS BEEN
11 WAIVED UNDER AS 43.23.005(f).

12 I UNDERSTAND THAT A FALSE CLAIM OF ELIGIBILITY TO OBTAIN A
13 PERMANENT FUND DIVIDEND FOR MYSELF OR FOR ANOTHER IS A
14 CRIMINAL OFFENSE, THAT IF CONVICTED I WILL FORFEIT FUTURE
15 DIVIDENDS, AND THAT I MUST REPAY ALL DIVIDENDS THAT HAVE BEEN
16 PAID TO ME. I UNDERSTAND THAT IF I WILFULLY MISREPRESENT,
17 EXERCISE GROSS NEGLIGENCE, OR RECKLESSLY DISREGARD A MATERIAL
18 FACT REGARDING MY ELIGIBILITY FOR A PERMANENT FUND DIVIDEND I
19 WILL FORFEIT THE DIVIDEND, BE SUBJECT TO A CIVIL FINE OF UP TO \$5,000,
20 AND LOSE MY ELIGIBILITY FOR THE NEXT FIVE DIVIDENDS. I UNDERSTAND
21 THAT THESE PENALTIES ARE IN ADDITION TO ANY CRIMINAL PENALTIES
22 IMPOSED.

23 _____
24 (SIGNATURE OF INDIVIDUAL,
25 PARENT, GUARDIAN, OR OTHER
26 AUTHORIZED REPRESENTATIVE)]

27 * Sec. 10. AS 43.23.035(b) is amended to read:

28 (b) If the commissioner determines that a permanent fund dividend should not have been
29 claimed by or paid to an individual, the commissioner may use all collection procedures or
30 remedies available for collection of taxes under this title to recover the payment of a permanent
31 fund dividend that was improperly made. A notice of an improperly paid dividend must be sent

1 to the individual within

2 (1) three years after the improper payment is sent; or

3 (2) six years after the improper payment is sent if the commissioner
4 determines that the individual exercised gross negligence or recklessly disregarded a
5 material fact in connection with a false statement made in an application [10 YEARS
6 AFTER THE IMPROPER PAYMENT. IF NOTICE IS NOT SENT WITHIN THE 10-YEAR
7 PERIOD, PROCEEDINGS MAY NOT BE COMMENCED IN COURT FOR RECOVERY OF
8 THE IMPROPER PAYMENT].

9 * Sec. 11. AS 43.23.035 is amended by adding a new subsection to read:

10 (d) If notice is not sent within the time required under (b) of this section, administrative
11 or judicial proceedings may not be commenced for recovery of an improperly paid dividend. The
12 time limitations of (b) of this section do not apply if a dividend is forfeited under (a) of this
13 section or if it is more probable than not that an individual has committed a crime in connection
14 with a false statement made in an application.

15 * Sec. 12. AS 43.23.055 is amended to read:

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

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

18 (2) adopt regulations under the Administrative Procedure Act (AS 44.62) that
19 establish procedures and time limits for claiming a permanent fund dividend; the department shall
20 set the time limit for applications for permanent fund dividends so that the number of eligible
21 applicants is determined by October 1 of the year for which the dividend is declared and
22 [PERMANENT FUND] dividends for a year are paid by December 31 of that year [BEFORE
23 APRIL 30 OF THE YEAR FOLLOWING THAT YEAR];

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

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

31 (5) annually determine, in cooperation with the Department of Corrections, the

1 number and identity of individuals ineligible for a permanent fund dividend under
2 AS 43.23.005(d);

3 (6) adopt regulations that are necessary to implement AS 43.23.005(d);

4 (7) adopt regulations that establish procedures for the parent, guardian, or other
5 authorized representative of a disabled individual to apply for prior year permanent fund
6 dividends not received by the disabled individual because no application was submitted on behalf
7 of the individual.

8 * Sec. 13. AS 43.23.095(8) is amended to read:

9 (8) "state resident" means an individual who is physically present in the state with
10 the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the
11 individual is not physically present in the state, intends to return to the state and remain
12 permanently in the state under the requirements of AS 01.10.055, and is absent only for any
13 of the following reasons:

14 (A) vocational, professional, or other specific education for which a
15 comparable program was not reasonably available in the state;

16 (B) secondary or postsecondary education;

17 (C) military service;

18 (D) medical treatment;

19 (E) service in Congress;

20 (F) other reasons which the commissioner may establish by regulation; or

21 (G) service in the Peace Corps;

22 * Sec. 14. AS 43.23.005(b) is repealed.

23 * Sec. 15. Notwithstanding permanent fund dividend application procedures or deadlines, a parent,
24 guardian, or other authorized representative of a minor who qualified for a dividend for 1992 because
25 of the amendment to AS 43.23.005(c), made in sec. 5 of this Act, may apply on behalf of the minor for
26 the dividend by September 1, 1992. The Department of Revenue shall prepare a form for applications
27 under this section.

28 * Sec. 16. Sections 5 and 8 of this Act are retroactive to January 1, 1992.

29 * Sec. 17. Sections 1 - 3, 5, 8, 10, 11, 13, 15, and 16 of this Act take effect immediately under
30 AS 01.10.070(c).

31 * Sec. 18. Sections 4, 6, 7, 9, 12, and 14 of this Act take effect January 1, 1993.