

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

BY THE SENATE FINANCE COMMITTEE

Offered: 2/12/92
 Referred: Rules

Sponsor(s): SENATORS CRAFT, Pourchot, Rodey, Sturgulewski, Zharoff

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. 15 of this Act only clarifies
 4 what the legislature has always intended the definition to be.

5 * Sec. 2. AS 34.45 is amended by adding a new section to article 3 to read:

6 Sec. 34.45.270. PERMANENT FUND DIVIDENDS. Notwithstanding other provisions
 7 of law, a permanent fund dividend warrant returned to the department as undeliverable or not
 8 presented for payment within the two-year period specified in AS 37.05.180 is considered
 9 abandoned and the money represented by the warrant shall be retained in the dividend fund
 10 established under AS 43.23.045 to be expended or distributed according to regulations adopted
 11 by the commissioner of revenue.

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

13 Sec. 37.05.180. TWO-YEAR LIMITATION ON PAYMENT OF WARRANTS. A [NO]
 14 warrant upon the state treasury may not be [IS] paid unless presented at the office of the

1 commissioner of revenue within two years of the date of its issuance. A warrant [ALL
2 WARRANTS] not presented within that time is [ARE] considered paid and money held at the
3 expiration of that time in a special fund or account for the payment of the warrant shall be
4 transferred to the general fund, except where the warrant is for the payment of a permanent
5 fund dividend or where transfer is prohibited by the federal government for state participation
6 in a federal program.

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)(1) - (3)
29 of this section, a minor is eligible for a dividend if, during the 24 months immediately
30 preceding the current dividend year, the minor was born to or adopted by an individual
31 who is eligible for a dividend for the current dividend year.

1 * Sec. 6. AS 43.23.005(c) is repealed and reenacted to read:

2 (c) A parent, guardian, or other authorized representative may claim a permanent fund
3 dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent
4 individual who is eligible to receive a payment under this section. Notwithstanding (a)(2) - (4)
5 of this section, a minor is eligible for a dividend if, during the 24 months immediately preceding
6 the current dividend year, the minor was born to or adopted by an individual who is eligible for
7 a dividend for the current dividend year.

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

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

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

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

19 * Sec. 9. AS 43.23 is amended by adding a new section to read:

20 Sec. 43.23.011. APPLICATION PERIOD. An application for a permanent fund dividend
21 shall be filed during the period that begins January 2 and ends March 31 of that dividend year.

22 * Sec. 10. AS 43.23.015(a) is amended to read:

23 (a) The commissioner shall adopt regulations under the Administrative Procedure Act
24 (AS 44.62) for determining the eligibility of individuals for permanent fund dividends. The
25 commissioner may require an individual to provide proof of eligibility, and the commissioner
26 may use other information available from other state departments or agencies to determine the
27 eligibility of an individual. The commissioner shall consider all relevant circumstances in
28 determining the eligibility of an individual. However, the residency of an individual's
29 spouse may not be the only factor relied upon by the commissioner in determining the
30 residency of the individual.

31 * Sec. 11. AS 43.23.015(b) is amended to read:

1 (b) The department shall prescribe and furnish an application form for claiming a
2 permanent fund dividend. The application must include notice of the penalties provided for
3 under AS 43.23.035 and 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, I HAVE
7 BEEN A STATE RESIDENT FOR AT LEAST 12 MONTHS IMMEDIATELY
8 PRECEDING APRIL 1 OF THE CURRENT DIVIDEND YEAR, AND I HAVE BEEN
9 PHYSICALLY PRESENT IN THE STATE OF ALASKA AT SOME TIME DURING
10 THE PERIOD BEGINNING JULY 1 TWO YEARS BEFORE THE DATE OF
11 APPLICATION AND ENDING ON THE DATE OF THIS APPLICATION UNLESS
12 THIS REQUIREMENT HAS BEEN WAIVED UNDER AS 43.23.005(f); OR

13 () (NAME), THE INDIVIDUAL ON WHOSE BEHALF I AM APPLYING, IS A
14 STATE RESIDENT ON THE DATE OF THIS APPLICATION, HAS BEEN A STATE
15 RESIDENT FOR AT LEAST 12 MONTHS IMMEDIATELY PRECEDING APRIL 1 OF
16 THE CURRENT DIVIDEND YEAR, AND HAS BEEN PHYSICALLY PRESENT IN
17 THE STATE OF ALASKA AT SOME TIME DURING THE PERIOD BEGINNING
18 JULY 1 TWO YEARS BEFORE THE DATE OF APPLICATION AND ENDING ON
19 THE DATE OF THIS APPLICATION UNLESS THIS REQUIREMENT HAS BEEN
20 WAIVED UNDER AS 43.23.005(f).

21 I UNDERSTAND THAT A FALSE CLAIM OF ELIGIBILITY TO OBTAIN A
22 PERMANENT FUND DIVIDEND FOR MYSELF OR FOR ANOTHER IS A
23 CRIMINAL OFFENSE, THAT IF CONVICTED I WILL FORFEIT FUTURE
24 DIVIDENDS, AND THAT I MUST REPAY ALL DIVIDENDS THAT HAVE BEEN
25 PAID TO ME. I UNDERSTAND THAT IF I WILFULLY MISREPRESENT,
26 EXERCISE GROSS NEGLIGENCE, OR RECKLESSLY DISREGARD A MATERIAL
27 FACT REGARDING MY ELIGIBILITY FOR A PERMANENT FUND DIVIDEND I
28 WILL FORFEIT THE DIVIDEND, BE SUBJECT TO A CIVIL FINE OF UP TO \$5,000,
29 AND LOSE MY ELIGIBILITY FOR THE NEXT FIVE DIVIDENDS. I UNDERSTAND
30 THAT THESE PENALTIES ARE IN ADDITION TO ANY CRIMINAL PENALTIES
31 IMPOSED.

(SIGNATURE OF INDIVIDUAL,
PARENT, GUARDIAN, OR OTHER
AUTHORIZED REPRESENTATIVE)]

* Sec. 12. AS 43.23.035(b) is amended to read:

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

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

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

* Sec. 13. AS 43.23.035 is amended by adding a new subsection to read:

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

* Sec. 14. AS 43.23.055 is amended to read:

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

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

(2) subject to AS 43.23.011, adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend; the department shall determine [SET THE TIME LIMIT FOR APPLICATIONS FOR PERMANENT FUND DIVIDENDS SO THAT] the number of eligible applicants [IS DETERMINED] by October 1 of the year for which the dividend is declared and pay the

1 [PERMANENT FUND] dividends by December 31 of that year [FOR A YEAR ARE PAID
2 BEFORE APRIL 30 OF THE YEAR FOLLOWING THAT YEAR];

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

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

10 (5) annually determine, in cooperation with the Department of Corrections, the
11 number and identity of individuals ineligible for a permanent fund dividend under
12 AS 43.23.005(d);

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

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

18 * Sec. 15. AS 43.23.095(8) is amended to read:

19 (8) "state resident" means an individual who is physically present in the state with
20 the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the
21 individual is not physically present in the state, intends to return to the state and remain
22 permanently in the state under the requirements of AS 01.10.055, and is absent only for any
23 of the following reasons:

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

26 (B) secondary or postsecondary education;

27 (C) military service;

28 (D) medical treatment;

29 (E) service in Congress;

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

31 (G) service in the Peace Corps;

1 * **Sec. 16.** AS 43.23.005(b) is repealed.

2 * **Sec. 17. APPLICATION PERIODS.** (a) Notwithstanding permanent fund dividend application
3 procedures or deadlines, a parent, guardian, or other authorized representative of a minor who qualified
4 for a dividend for 1992 because of the amendment to AS 43.23.005(c), made in sec. 5 of this Act, may
5 apply on behalf of the minor for the dividend by September 1, 1992. The Department of Revenue shall
6 prepare a form for applications under this section.

7 (b) Notwithstanding AS 43.23.011, as added by sec. 9 of this Act, the application period for
8 1993 is the period that begins January 2, 1993, and ends June 30, 1993.

9 * **Sec. 18.** Sections 5 and 10 of this Act are retroactive to January 1, 1992.

10 * **Sec. 19.** Sections 1 - 3, 5, 10, 12, 13, 15, 17(a), and 18 of this Act take effect immediately under
11 AS 01.10.070(c).

12 * **Sec. 20.** Sections 4, 6 - 9, 11, 14, 16, and 17(b) of this Act take effect January 1, 1993.