

SENATE BILL NO. 361

IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR CRAFT

Introduced: 1/17/92
Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the permanent fund annuity program; and providing for an effective
2 date."

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

4 * Section 1. AS 14.43.120(i) is amended to read:

5 (i) If a loan is in default, the commission shall notify the borrower that repayment of the
6 remaining balance is accelerated and due by sending the borrower a notice by registered or
7 certified mail. The permanent fund dividend and amounts in the permanent fund annuity
8 account of a borrower may be taken under AS 43.23.065(b)(3) to satisfy the balance due on the
9 defaulted loan.

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

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

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

1 (g) Except as provided in AS 43.23.015(e), a person who is eligible to receive a
2 permanent fund dividend under this section, or who is authorized to claim a dividend on behalf
3 of another individual under (c) of this section, may elect to receive the dividend either in cash
4 or as an annuity credit in the recipient's permanent fund annuity account.

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

6 (b) The department shall prescribe and furnish an application form for claiming a
7 permanent fund dividend. The application must allow an applicant to elect to receive the
8 dividend either in cash or as an annuity credit and must contain a statement of eligibility and
9 a certification of residency in substantially the following form:

10 I certify that

11 () I am a state resident on the date of this application, I have been a state
12 resident for at least 12 months immediately preceding April 1 of the current
13 dividend year, and I have been physically present in the State of Alaska at some
14 time during the period beginning July 1 two years before the date of application
15 and ending on the date of this application unless this requirement has been waived
16 under AS 43.23.005(f); or

17 () (name), the individual on whose behalf I am applying, is a state resident
18 on the date of this application, has been a state resident for at least 12 months
19 immediately preceding April 1 of the current dividend year, and has been
20 physically present in the State of Alaska at some time during the period beginning
21 July 1 two years before the date of application and ending on the date of this
22 application unless this requirement has been waived under AS 43.23.005(f).

23 () I understand that a false claim of eligibility to obtain a permanent fund
24 dividend for myself or for another is a criminal offense, that if convicted I will
25 forfeit future dividends, [AND] that I must repay all dividends that have been paid
26 to me, and that I will lose all money credited to my permanent fund annuity
27 account. I understand that if I wilfully misrepresent, exercise gross negligence,
28 or recklessly disregard a material fact regarding my eligibility for a permanent
29 fund dividend I will forfeit the dividend, be subject to a civil fine of up to \$5,000,
30 and lose my eligibility for the next five dividends. I understand that these penalties
31 are in addition to any criminal penalties imposed.

(signature of individual,
parent, guardian, or other
authorized representative)

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

6 (e) If a public agency claims a [PERMANENT FUND] dividend on behalf of an
7 individual under AS 43.23.005(c), the public agency shall elect cash under AS 43.23.005(g)
8 and hold the dividend in trust for the individual. Money held in trust under this subsection shall
9 be invested by the commissioner in accordance with AS 37.10.070.

10 * Sec. 6. AS 43.23.015(f) is amended to read:

11 (f) A minor or a disabled or an incompetent individual may not maintain a claim against
12 the state or an officer or employee of the state based either on the manner in which the parent,
13 guardian, or authorized representative other than a public agency of the state managed or
14 disposed of permanent fund dividends received on behalf of the minor or disabled or incompetent
15 individual or on an election made or not made on that individual's behalf under
16 AS 43.23.005(g).

17 * Sec. 7. AS 43.23.035 is amended to read:

18 Sec. 43.23.035. PENALTIES AND ENFORCEMENT. (a) In addition to any criminal
19 penalties imposed by state law, if an individual is convicted of a crime in connection with a false
20 statement made in a certification required under AS 43.23.015, and the conviction is not reversed,
21 that individual forfeits all permanent fund dividends paid and all money credited to that
22 individual's permanent fund annuity account and is not eligible for a future permanent fund
23 dividend.

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

31 (c) An individual who, in claiming a permanent fund dividend, or an individual who, in

1 certifying another person's eligibility, wilfully misrepresents, exercises gross negligence, or
2 recklessly disregards a material fact pertaining to eligibility forfeits the dividend, together with
3 income earned on the dividend that has been credited to that individual's annuity account.
4 is subject to a civil fine of up to \$5,000 [,] and loses eligibility to receive the next five dividends
5 following the forfeited dividend [DIVIDENDS]. The commissioner may commence proceedings
6 in court to enforce this subsection.

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

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

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

10 (2) adopt regulations under the Administrative Procedure Act (AS 44.62) that
11 establish procedures and time limits for claiming a cash permanent fund dividend or for electing
12 an annuity credit; the department shall set the time limit for applications for [PERMANENT
13 FUND] dividends so that the number of eligible applicants is determined by October 1 of the
14 year for which the dividend is declared and [PERMANENT FUND] dividends for a year are paid
15 or credited to annuity accounts before April 30 of the year following that year;

16 (3) adopt regulations under the Administrative Procedure Act (AS 44.62) that
17 establish procedures and time limits for an individual upon emancipation or upon reaching
18 majority to apply for permanent fund dividends not credited to that individual's annuity
19 account or received during minority because the parent, guardian, or other authorized
20 representative did not apply on behalf of the individual;

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

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

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

28 (7) adopt regulations that establish procedures for the parent, guardian, or other
29 authorized representative of a disabled individual to apply for prior year permanent fund
30 dividends not credited to the disabled individual's annuity account or received by the disabled
31 individual because no application was submitted on behalf of the individual;

1 **(8) maintain individual annuity account records and administer the**
2 **permanent fund annuity program.**

3 * Sec. 9. AS 43.23.065(a) is amended to read:

4 (a) Except as provided in (b) of this section, 45 percent of the annual permanent fund
5 dividend, **together with income earned on that percentage if the dividend is credited to a**
6 **permanent fund annuity account, [PAYABLE TO AN INDIVIDUAL]** is exempt from levy,
7 execution, garnishment, attachment, or any other remedy for the collection of debt. This
8 exemption applies to an eligible individual's [PERMANENT FUND] dividend both before and
9 after payment is made to the individual **or it is credited to the individual's annuity account.**

10 * Sec. 10. AS 43.23.067 is amended to read:

11 Sec. 43.23.067. CLAIMS OF DEFAULTED SCHOLARSHIP LOANS. (a) AS 09.38
12 does not apply to permanent fund dividends **or money in permanent fund annuity accounts**
13 taken under AS 14.43.120(i). Notwithstanding AS 09.35, execution on a claim under
14 AS 14.43.120(i) is accomplished by delivering a certified claim to the department containing the
15 following information:

16 (1) the name and social security number of the individual whose dividend **or**
17 **annuity account** is being claimed;

18 (2) the amount the individual owes on the scholarship loan; and

19 (3) a statement that

20 (A) the debt has not been contested, or, if contested, that the issue has
21 been resolved in favor of the Alaska Commission on Postsecondary Education; and

22 (B) if the debt has been contested and resolved in favor of the Alaska
23 Commission on Postsecondary Education, no appeal is pending, the time limit for filing
24 an appeal has expired, or the appeal has been resolved in favor of the commission.

25 (b) Upon receipt of a claim under (a) of this section, the department shall notify the
26 individual of the claim. The notice shall be sent to the address provided in the individual's
27 permanent fund dividend application and must provide the following information:

28 (1) the amount of the claim; and

29 (2) notice that the amount of the permanent fund dividend **and amount in the**
30 **individual's annuity account** that does not exceed the amount of the claim shall be paid to the
31 Alaska Commission on Postsecondary Education unless the commission releases the claim or the

1 individual requests a hearing within 30 days after the date the notice is sent by the department.

2 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b)(2)
3 of this section. If a request for a hearing is not received by the department within the required
4 time limit, the department shall pay to the Alaska Commission on Postsecondary Education the
5 amount of the permanent fund dividend and amount in the individual's annuity account that
6 does not exceed the amount of the claim.

7 * **Sec. 11.** AS 43.23.075 is amended to read:

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

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

25 (c) An individual who is denied assistance solely because permanent fund dividends
26 received by the individual or by a member of the individual's household or permanent fund
27 annuity accounts of the individual or a member of the individual's household are counted
28 as income or resources under federal law or regulation is eligible for cash assistance under
29 AS 47.25.120 - 47.25.300 (general relief assistance program). Notwithstanding the limit in
30 AS 47.25.130, the individual is entitled to receive, for a period not to exceed four months, the
31 same amount as the individual would have received under other public assistance programs had

1 there been no permanent fund dividend program.

2 * **Sec. 12.** AS 43.23.085 is amended to read:

3 Sec. 43.23.085. **ELIGIBILITY FOR STATE PROGRAMS.** A program administered by
4 the state or any of its instrumentalities or municipalities, the eligibility for which is based on
5 financial need, may not consider a permanent fund dividend or permanent fund annuity
6 account as income or resources unless required to do so by federal law or regulation.

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

8 **ARTICLE 2. PERMANENT FUND ANNUITY PROGRAM.**

9 Sec. 43.23.115. **ANNUITY INVESTMENT FUND.** (a) The annuity investment fund
10 is established as a separate fund in the state treasury. The annuity investment fund consists of
11 money transferred from the dividend fund and income earned by the annuity investment fund.
12 An amount equal to the permanent fund dividends elected as annuity credits under
13 AS 43.23.005(g) shall be annually transferred by the department from the dividend fund to the
14 annuity investment fund and credited to individual annuity accounts.

15 (b) Money in the annuity investment fund shall be invested by the commissioner in
16 accordance with AS 37.10.071. The commissioner shall credit the net income of the annuity
17 investment fund to the individual annuity accounts on a proportional basis.

18 (c) The department shall request the legislature to appropriate from the annuity
19 investment fund an amount sufficient to pay costs of administering the permanent fund annuity
20 program and monthly annuity payments for the subsequent fiscal year. Costs of administration
21 funded under this subsection shall be allocated equitably among all individual annuity accounts.

22 Sec. 43.23.125. **PAYMENT OF ANNUITIES.** (a) An individual with one or more
23 annuity credits may receive an annuity upon reaching the age of 65. The annuity shall be paid
24 monthly and the amount of each payment shall be based upon the principal and accrued income
25 credited to the individual's annuity account. An individual need not be a resident of the state
26 to be eligible to receive an annuity payment.

27 (b) An annuity shall be paid as a straight life annuity or other payment plan authorized
28 by the commissioner. The size of the annuity may not vary on account of the individual's sex.

29 (c) If an individual elects to credit a permanent fund dividend to an annuity account in
30 a particular year, that individual may make an irrevocable choice regarding death benefits with
31 respect to that credit. If a person dies before age 65 and that person has selected death benefits

1 in at least one year, a lump-sum payment shall be paid to the surviving spouse by right of
2 survivorship or the beneficiary if a different beneficiary was designated. When no spouse
3 survives and no beneficiary is designated, the lump sum shall be paid to the decedent's estate.
4 The lump-sum payment includes all dividends credited to the individual's annuity account in
5 years for which death benefits were selected and income earned on those dividends. Dividends
6 credited to an individual's annuity account in years for which death benefits were not selected
7 and income earned on those dividends shall, if the individual dies before age 65, be distributed
8 equitably among the annuity accounts of all individuals based on the amounts in the accounts for
9 which death benefits were not selected.

10 * ~~Sec. 14.~~ AS 43.23.095(7) and secs. 1 - 18, 25, and 26, ch. 99, SLA 1985, are repealed.

11 * ~~Sec. 15.~~ This Act takes effect January 1, 1993.