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# STATE OF ALASKA THE LEGISLATURE

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POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary

4-29-86

1:30pm

4-30-86

8:00 AM

"

"

**HOUSE  
COMMITTEE REPORT**

(7)

Date referred: 4/23/86

FURTHER REFERRALS: FINANCE

DATE: \_\_\_\_\_

The JUDICIARY Committee has considered SSSB 421

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

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- \_\_\_\_\_  new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

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SIGNING OTHER RECOMMENDATIONS:

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\_\_\_\_\_  
Chairman

Original sponsors: P. Fischer and DeVries

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 421 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to attachment and assignment of  
7 permanent fund dividends; and providing for an  
8 effective date."

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

10 \* Section 1. AS 43.23.065 is amended by adding new subsections to read:

11 (b) AS 09.38 does not apply to permanent fund dividends taken to  
12 satisfy debts under (a)(1) - (3) of this section.

13 (c) A voluntary assignment of a permanent fund dividend to  
14 satisfy a debt of a type listed under (a)(1) - (3) of this section  
15 shall be granted the priority provided for under (a) of this section  
16 in the same manner as an involuntary attachment.

17 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).

Cook ✓  
4/30/86

Original sponsors: P.Fischer and DeVries

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

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16 in the same manner as an involuntary attachment.17 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
18 10.070(c).

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No: SSSB 421  
Title: An act relating to attachment and assignment of Permanent Fund Dividends  
Sponsor: P. Fischer and DeVries  
Requestor: Senate Judiciary  
Date of Request: 3/5/86

FISCAL DETAIL

Agency Affected: Revenue  
BRU: Permanent Fund Dividend  
  
Components: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: Ervin B. Jones  
Division: Administrative Services

Phone: 465-2313  
Date: 4/17/86

Approved by Commissioner: [Signature]  
Agency: Revenue

Date: 4/17/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 6, 1986

SUBJECT: Permanent Fund Dividends  
(SSSB 421)

TO: Representative Katie Hurley, Chair  
House State Affairs Committee

FROM: Tamara Brandt Cook  
Director  
Division of Legal Services

A bill relating to permanent fund dividends has been referred to your committee, SSSB 421. I wish to alert you to the fact that the title to the bill is defective in that it does not adequately reflect the subject of the bill as required under Article II, Section 13 of the state constitution. AS 09.38, dealt with under AS 43.23.065(b) in the bill, is a chapter relating to exemptions for certain property from levy, attachment and execution to satisfy debts. As such, it deals with more than attachment, which is all that is reflected in the title. AS 43.23.065(c) added in Section 1 of the bill deals with execution, which is distinct from attachment.

A better title for SSSB 421 would be "An Act relating to the use of permanent fund dividends to satisfy certain debts; and providing for an effective date." Under Rule 24(c) of the Uniform Rules a committee of the second house is prohibited from amending a bill in a way that will require a title change, except that the committee may make a clerical or technical change to the title. Correcting the title problem contained in SSSB 421 is the type of technical change which can be accomplished by a committee of the second house pursuant to the rule. Therefore, I recommend that the State Affairs Committee consider reporting out a committee substitute for SSSB 421 correcting the title.

If I can be of any assistance to the committee in dealing with this bill, please let me know.

TBC:mkr  
m4/090



Official Business

# Alaska State Legislature

## Senate

SENATOR PAUL FISCHER

Pouch V  
State Capitol  
Juneau, Alaska 99811

To: House State Affairs Committee Members

From: Senator Paul Fischer *P.F.*

Date: April 17, 1986

Subject: Backup material for SSSB 421.

Attached is the backup material for SSSB 421. Included for your consideration is the following:

- (1) Summary of the effects of SSSB 421.
- (2) Copy of SSSB 421.
- (3) Zero fiscal note.
- (4) Sectional analysis of SSSB 421.
- (5) Copies of the relevant statutes (AS 43.23.065 and AS 09.38.010)



# Alaska State Legislature

## Senate

Official Business

SENATOR PAUL FISCHER

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: House State Affairs Committee Members

FROM: Senator Paul Fischer

DATE: April 16, 1986

SUBJECT: SSSB 421, permanent fund dividend attachment.

This measure, if enacted, would facilitate the attachment of an individual's permanent fund dividend for payment of child support, court ordered restitution, or debts to the state.

By making SSSB 421 law, we would be streamlining the procedures used to accomplish the purposes of prioritized debts under AS 43.23.065.

SSSB 421 would eliminate some procedural hurdles, established to protect property rights, that should not apply when an individual owes a prioritized debt.

Whether the debt is child support, victim's restitution, a criminal court fine, attorney fees for the public defender agency, or other debts to the state, this bill will eliminate the procedural maze which effectively prevents the use of permanent fund dividends for satisfaction of that debt. This legislation accomplishes this while still protecting the rights of the debtor.

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SSSR 421  
 Title : Act relating to attachment  
and assignment of permanent fund  
dividends  
 Sponsor : Senator P. Fischer  
 Requestor : \_\_\_\_\_  
 Date of Request : \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected : All  
 BRU : \_\_\_\_\_  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS :**

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : \_\_\_\_\_  
 Division : Senator Jan Faiks, Co-chairman  
Senate Finance Committee

Phone : 465-4523

Date : 3/20/86

Approved by Commissioner : \_\_\_\_\_

Date : \_\_\_\_\_

Agency : \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA  
THE LEGISLATURE

FOUCHY STATE CAPITOL  
JUNEAU ALASKA 998  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 4, 1986

SUBJECT: Sectional Analysis of SSSB 421

TO: Senator Paul Fischer

FROM: Tamara Brandt Cook *TBC*  
Director  
Division of Legal Services

Section 1. The statute dealing with exemption of permanent fund dividends from levy, execution, garnishment, attachment or other remedies for the collection of debt is amended. Under existing law the exemption is not available for dividends taken to satisfy child support obligations, a debt owed to an agency, or a court ordered restitution under certain statutes. Under this bill, for these types of non-exempt situations, AS 09.38 (Alaska Exemptions Act) does not apply. Execution is not accomplished under the general chapter on executions (AS 09.35) but rather, it is accomplished by serving a certified copy of the judgment on the commissioner of revenue. In addition, a voluntary assignment of a dividend to satisfy one of the debts of a type that is not exempt under existing law is to be granted the same priority as would be granted under existing law for an involuntary attachment.

Sec. 2. The Act has an immediate effective date.

TBC:mkr  
m3/118

**Sec. 43.23.065. Exemption of permanent fund dividends.** Fifty percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. An exemption is not available under this section for permanent fund dividends taken to satisfy (1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220; (2) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired; or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100. A child support obligation under (1) of this section has priority over a debt owed to an agency of the state or court ordered restitution, and a permanent fund dividend may not be taken to satisfy a debt under (2) of this section until any portion of the dividend necessary to satisfy a child support obligation and court ordered restitution has been taken. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 57 SLA 1985)

**Revisor's notes.** — Sections 12 and 13, ch. 99, SLA 1985, amend this section and add new (b) and (c). The amendments are effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendments become law, the section will read: "(a) Fifty percent of a cash permanent fund dividend payment is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. An exemption is not available under this section for cash permanent fund dividend payments taken to satisfy (1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220; (2) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired; or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100. A child support obligation under (1) of this section has priority over a debt owed to an agency of the state, and a permanent fund dividend may not be taken to satisfy a debt under (2) of this section until any portion of the dividend necessary to satisfy a child support obligation has been taken.

"(b) The department shall require an individual to take 100 percent of the permanent fund dividend in cash if the department receives a levy, execution, garnishment, attachment or other legal remedy for the collection of a past due debt described in (a)(1) or (2) of this section.

"(c) The courts of this state may, as a condition of any civil judgment or restitution order under AS 12.55.045 — 12.55.051 or 12.55.100, require the defendant to take the defendant's permanent fund dividend in cash."

Section 22, ch. 99, SLA 1985 provides for an advisory vote to be held at the general election in 1986. For the text of that provision, see § 22, ch. 99, SLA 1985 in the Temporary and Special Acts.

**Effect of amendments.** — The 1984 amendment added the last sentence and, in the next-to-last sentence, substituted "An exemption is not" for "No exemption is," inserted "(1)," and added the language beginning with "(2) a debt" at the end of the sentence. Section 2, ch. 157, SLA 1984 limits the application of the 1984 amendment to dividends issued for 1984 and subsequent years.

The first 1985 amendment added "or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100" at the end of the next-to-last sentence and in

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the last sentence inserted "or court ordered restitution" and "and court ordered restitution."

The second 1985 amendment, effective

**Sec. 43.23.075. Eligibility for public assistance.**

**Revisor's notes.** — Section 14, ch. 99, SLA 1985, amends this section. The amendment is effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendment becomes law, the section will read: "(a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources received by the recipient of public assistance or by a member of the recipient's household unless required to do so by federal law or regulation. The Department of Health and Social Services shall notify all recipients of public assistance of the effects of a permanent fund dividend credit or cash payment.

"(b) An individual who is denied medical assistance under 42 U.S.C. 1396 — 1396p (Social Security Act, Title XIX) solely because of the credit or receipt of a permanent fund dividend by the individual or by a member of the individual's household is eligible for state-funded medical assistance under the general relief assistance program (AS 47.25.120 —

**Sec. 43.23.095. Definitions.**

**Revisor's notes.** — Section 15, ch. 99, SLA 1985, amends (6) of this section. The amendment is effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendment becomes law, the paragraph will read: "(6) 'permanent fund dividend' means a credit to an annuity account or a cash payment under this chapter."

In addition, § 16, ch. 99, SLA 1985, also effective upon the repeal of § 1, ch. 99, SLA 1985, enacts AS 43.23.110 — 43.23.130. If § 16, ch. 99, SLA 1985 becomes law, the new sections will read:

**"Article 2. Annuity Program.**

**"Sec. 43.23.110. Annuity investment fund.** (a) The annuity investment fund is established as a separate fund in the state

if § 1, ch. 99, SLA 1985 is repealed, rewrote subsection (a) and added subsections (b) and (c).

47.25.300) The individual is entitled to receive, for a period not to exceed four months, the same level of medical assistance as the individual would have received under 42 U.S.C. 1396 — 1396p (Social Security Act, Title XIX) had there been no permanent fund dividend program.

"(c) An individual who is denied assistance solely because permanent fund dividends credited to or received by the individual or by a member of the individual's household are counted as income or resources under federal law or regulation is eligible for cash assistance under the general relief assistance program (AS 47.25.120 — 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual is entitled to receive, for a period not to exceed four months, the same amount as the individual would have received under other public assistance programs had there been no permanent fund dividend program."

Section 22, ch. 99, SLA 1985 provides for an advisory vote to be held at the general election in 1986. For the text of that provision, see § 22, ch. 99, SLA 1985 in the Temporary and Special Acts.

treasury. The annuity investment fund consists of money transferred from the dividend fund and income earned by the annuity investment fund. Notwithstanding AS 37.13.145, an amount equal to the permanent fund dividends taken as annuity credits under this chapter shall be annually transferred from the dividend fund to the annuity investment fund.

"(b) Money in the annuity investment fund shall be invested by the commissioner of revenue in investments authorized under AS 29.35.110. The commissioner of administration shall credit the net income of the annuity investment fund to the individual annuity accounts.

"(c) The legislature may annually appropriate to the Department of Administration an amount sufficient to pay

monthly annuity investment fund to the Department of Administration in order to maintain the annuity program.

"(d) The legislature may appropriate from the annuity investment fund an amount to the annuity program. The amount shall be allocated to individual annuity accounts.

"(e) Notwithstanding this section, revenue may be derived from annuity investment fund insurance contracts and insurance companies' ratings. Best's financial rating of purchase.

**"Sec. 43.23.110.**

(a) The annuity investment fund shall be managed by the commissioner of administration. The commissioner shall adopt regulations to govern the annuity program.

"(b) The commissioner shall maintain an annuity investment fund account under AS 43.23.110.

"Sec. 43.23.110. (a) An individual who is entitled to an annuity credit upon reaching the age of 65 shall be eligible to receive the annuity credit upon reaching the age of 65.

"(b) An annuity credit shall be paid monthly and accrued to the annuity account as a straight line investment plan annuity. The size of the annuity credit shall be based on account of the

**Chapter**

**Section 80 Transfer of a**

Editor's notes. - This section is set out above to correct a minor error in the main pamphlet

Chapter 38. Alaska Exemptions Act.

Section 30. Exemption of earnings and liquid assets	Section 115. Adjustment of dollar amounts
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Sec. 09.38.010. Homestead exemption.

NOTES TO DECISIONS

Avoidance of judicial lien to extent of impairment of homestead exemption. — Section 522(f) of the Bankruptcy Code provides that "the debtor may avoid the fixing of a [judicial] lien on property to the extent that such lien impairs an exemption." To determine whether there is such an impairment of a homestead exemption, the following steps are taken by the court: (1) all liens are ranked in order of priority (and equity, if any) to the extent of the value of

the property; (2) the gross amount of the homestead exemption is subtracted from the value of the property; and (3) from the remainder left, each lien is subtracted, one at a time, beginning with the most senior lien, until a judicial lien is reached. Then the judicial lien is subtracted. To the extent that all or any portion of the judicial lien exceeds the remainder derived in (2), above, it is voidable. In re Duncan, 43 Bankr. 833 (Bankr. D. Alaska 1984).

Sec. 09.38.030. Exemption of earnings and liquid assets. (a) Except as provided in (b) and (c) of this section and AS 09.38.050, an individual debtor is entitled to an exemption of the individual debtor's weekly net earnings not to exceed \$175. The weekly net earnings of an individual are determined by subtracting from the weekly gross earnings all sums required by law or court order to be withheld. The weekly net earnings of an individual paid on a monthly basis are determined by subtracting from the monthly gross earnings of the individual all sums required by law or court order to be withheld and dividing the remainder by 4.3. The weekly net earnings of an individual paid on a semi-monthly basis are determined by subtracting from the semi-monthly gross earnings all sums required by law or court order to be withheld and dividing the remainder by 2.17.

(b) An individual who does not receive earnings either weekly, semi-monthly or monthly is entitled to a maximum exemption for the aggregate value of cash and other liquid assets available in any month of \$700, except as provided in AS 09.38.050. The term "liquid assets" includes deposits, securities, notes, drafts, accrued vacation pay, refunds, prepayments, and receivables.

(c) A creditor may levy upon earnings exempt under (a) and (b) of this section if the creditor's claim is

(1) enforce or  
(2) enforce U.S.C. 1301  
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(e) The fo AS 09.38.01 individual, s assets under  
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(1) enforceable against exempt property under AS 09.38.065(a)(1); or

(2) enforceable under an order of a court of bankruptcy under 11 U.S.C. 1301 — 1330 (Bankruptcy Reform Act of 1978).

(d) If the individual debtor is a nonresident, the limitations on garnishment imposed under 15 U.S.C. 1673 apply.

(e) The following property, unless exempt without limitation under AS 09.38.015, upon receipt by and while it is in the possession of the individual, shall be treated as earnings, income, cash, or other liquid assets under this section:

(1) benefits paid by reason of disability, illness, or unemployment;

(2) money or property received for alimony or separate maintenance;

(3) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent;

(4) proceeds or benefits paid or payable on the death of an insured, if the individual was the spouse or a dependent of the insured; and

(5) amounts paid under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service. (S 2 ch 62 SLA 1982; am § 36 ch 6 SLA 1984)

Effect of amendments. — The 1984 reference in paragraph (2) of subsection amendment changed the federal statutory (c).

Sec. 09.38.115. Adjustment of dollar amounts. (a) The dollar amounts in this chapter change, as provided in this section, according to and to the extent of changes in the Consumer Price Index for all Urban Consumers for the Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United States Department of Labor (the index). The index for January of the year in which this section becomes effective is the reference base index.

(b) The dollar amounts change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the index for November of the preceding year and the reference base index, is 10 percent or more, but

(1) the portion of the percentage change in the index in excess of a multiple of 10 percent is disregarded and the dollar amounts change only in multiples of 10 percent of the amounts appearing in this chapter on August 26, 1982; and

(2) the dollar amounts do not change if the amounts required by this section are those currently in effect as a result of earlier application of this section.

This bill is intended to facilitate the attachment of an individual's permanent fund dividend for the payment of child support, court ordered restitution, or debts to the state.

Currently there exists a legal dispute as to whether a permanent fund dividend is subject to the exemption procedures in the Alaska Exemption Act, AS 09.38, when the permanent fund dividend is being sought for a debt prioritized under AS 43.23.065 (1-3). While arguments as to the applicability of AS 09.38 can be made, this legislation directs that when a judgment is rendered by a court for child support, victim restitution or a debt to the state, then the individual cannot claim that the permanent fund dividend is exempt from attachment.

Additionally, the execution procedures existing in AS 09.35 would no longer be applicable to attachment of a dividend for a prioritized debt. This change would not foreclose due process for dividend receipts, rather the legislation directs the Department of Revenue to adopt procedures whereby a recipient receives notice of the attachment and the opportunity to raise a defense to it, e.g., the debt has been paid, or this is the debt of this particular dividend recipient. Of course these debts have already been reduced to judgments in other forums, so that substantive defenses are precluded.

The final provision in this bill would recognize situations where individuals, having incurred a prioritized debt, cooperate and voluntarily assign their dividends to satisfy that debt. Currently, a voluntarily assigned dividend for a prioritized debt, is given no greater priority than any other involuntary attachment for an unprioritized purpose. Rather, it is strictly a matter of which is filed first, thus belying the purposes of priorities set out in AS 43.23.065.

With passage of this legislation, we would be streamlining procedures to accomplish the purposes of prioritized debts under this statute. By dispensing with procedural hurdles established to protect property rights that should not apply when an individual owes a prioritized debt, we facilitate use of permanent fund dividends for a greater purpose. For whether the debt is child support, victim restitution, criminal court fines, attorney fees for the public defender agency, or other debts to the state, we should eliminate procedural mazes which effectively prevent use of a permanent fund dividend for satisfaction. And this legislation does that while still protecting rights of the debtor.

Department of Revenue  
Administrative Services Division  
Fiscal Note Analysis  
SSSB 421

Assumptions:

1. It is assumed that the substance of AS 09.38, related regulations and the volume of court history, interpreting those laws would not apply to attachments for Child Support Enforcement, debts to state agencies, or court ordered restitution and cannot be relied upon as a basis for such attachments.
2. It is assumed that all attachments which arise from a court judgment will be served as a certified copy of judgment and that attachments arising from administrative decisions (e.g. tax liabilities, child support orders) will continue to be served in the existing way.
3. It is assumed that AS 09.40.010 will apply to all prejudgment attachments.

Program Summary:

AS 43.23.065 was originally enacted to offer protection to 50% of an applicant's dividend from the standard remedies for collection of debts - levy, execution, garnishment, and attachment. These attachments arise from either court orders or from administrative remedies found in federal and state law.

This protection is specifically not offered in three cases:

- 1) child support obligations required by court order or decision of the Child Support Enforcement Division;
- 2) debts owed to a state agency, where appeals have been exhausted; and
- 3) court ordered restitution

In these cases, 100% of the dividend is subject to attachment.

In 1985, the Department of Revenue received and processed 15,008 attachment orders, of which 12,123 were accepted. Of these, the above three categories accounted for the following number of attachments:

- 1) CSED - 1,297
- 2) State debts - 1,286
- 3) Restitution orders - 3

The attachments can be served as Writs of Execution, arising from a court judgment or as an Order to Withhold arising from an administrative decision. The attachments are served either on paper or by magnetic tape. The paper attachments are manually entered into the PFD system, identifying the person's record as one to be attached upon payment. The magnetic tape match does basically the same thing. Because of the huge volume of attachments, and because there is only one employee to process them, the Department of Revenue has been encouraging tape matches for those creditors who are large and sophisticated enough to handle it (e.g. Child Support Enforcement, IRS, Department of Labor). Those serving the

Program Summary (con't)

department with attachments may release the attachment up until the time the dividend is paid. This occurs when the debtor has satisfied the debt by other means. Releases are all done manually by entering a status change in the file. The PFD system includes a "garnishment" subsystem which processes payments in priority order once an attached dividend comes up for payment. In cases where a residual amount is due the applicant, the subsystem also produces that warrant.

In each case where an individual's dividend is attached, in whole or in part, the Department of Revenue sends the applicant a notice indicating how much was taken, and by whom. This notice also provides a telephone number at which the process server can be contacted.

The changes proposed would require the Document Processing section of Administrative Services - PFD to do the following:

- 1) modify the voluntary assignment to explain the changes;
- 2) review all voluntary assignments to determine those falling under AS 43.23.065(d) as proposed;
- 3) modify the Attachment sub-system of the PFD system to recognize the new priority of such voluntary assignments.

1. Positions: None

2. Other Expenditures: None

Funding: N/A

Section Cost Analysis: N/A

Computations: N/A

Impact on Local Government: N/A

Attachments: None

Suggested Revisions: None