

HB

223

HOUSE COMMITTEE REPORT

Date referred: 1/18/88

FURTHER REFERRALS:

DATE: 2-5-88

The Finance Committee has considered HB 223

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

RECOMMENDS:

- replace with CS HB 223 (FIN) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact 2/5/88-LABOR* same as previous fiscal note
- zero fiscal note 2/4/88-POST SEC. ED published 1/18/88
- zero with analysis 1/22/88 Comm. same as previous zero fiscal
- 2/4/88 Court note published _____

SIGNING DO PASS:

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SIGNING OTHER RECOMMENDATIONS:

[Signature] N.R.

[Signature] No Rec

[Signature] NO REC

[Signature]
Chairman's signature

**STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____ Bill Version: CS HB 223 (Fin.)
 Publish Date: 2-1-88

Revision Date: 2-4-88 Agency Affected: Alaska Court System
 Title: An act relating to permanent BRU: Trial Courts
 fund dividends
 Sponsor: Swackhammer, Larson Components:
 Requestor: Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)						
	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL
REVENUE

FUNDING: (Thousands of Dollars)						
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: *Jan Strandberg* General Counsel Phone: 264-8215
 Division: Alaska Court System Date: 2-4-88

Approved by: *Stephanie Cole, for -* Arthur H. Snowden, II, Administrative Director Date: 2-4-88
 Agency: Alaska Court System

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

ALASKA COURT SYSTEM

CSHB 223 - FISCAL ANALYSIS

The court system anticipates that the Department of Law will use this bill's procedures to collect court-ordered fines and restitution and that the receipts will be returned to the general fund or to the affected victims after deducting the proposed administrative fee. The court system assumes that the fiscal impact of the fee will be offset by the decreased number of writs of execution that must be processed by the clerks of court for state agencies.

FISCAL NOTE

REQUEST:

Revision Date: _____
Tide: An Act relating to remedies for the collection of debt involving PFD's...
Sponsor: Reps. Swackhammer & Larson
Requestor: House Finance

Agency Affected: Commerce & Econ. Dev.
BRU: Occupational Licensing

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

(See attached)

Prepared by: Jennifer Strickler, Mgnt. Analyst
Division: Occupational Licensing

Phone: 465-2144
Date: January 21, 1988

Approved by Commissioner: J. Anthony Smith
Agency: Commerce and Economic Development

Date: 1/21/88

Distribution (by preparer):

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

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JAN 23 1988

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 223 (Fin)

The Division of Occupational Licensing experienced approximately 3% of NSF checks submitted annually for licensing fees during FY 86 and FY 87. At that rate, 3% of the projected FY 88 revenue will total \$55,388.52.

CSHB 223 will allow the division to recover funds for NSF checks through filing a claim against an individual's permanent fund dividend check, after all other attempts to recover the funds are unsuccessful. The impact of the bill should discourage future non-compliance with attempts to recover funds.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 223 (Jud)
PUBLISH DATE: 1-18-88

FISCAL NOTE

REQUEST:

Revision Date: 2-4-88
Title: Re: Permanent Fund Dividend
Sponsor: Swackhammer and Larson
Requestor: House Finance

Agency Affected: Education
BRU: Postsecondary Education/
Student Loan Corporation
Components: Student Loan Fund

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		43.0	44.1	45.1	46.8	48.2
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		43.0	44.1	45.1	46.8	48.2

CAPITAL	N.A.	(430.0)	(441.2)	(454.0)	(468.0)	(482.0)
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	N.A.	(473.0)	(485.3)	(499.4)	(514.8)	(530.2)
TOTAL		(473.0)	(485.3)	(499.4)	(514.8)	(530.2)

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

See Attached

Prepared by: Kerry D. Romesburg, Executive Director Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: 2-4-88

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CSHB 223

ANALYSIS OF FISCAL IMPACT

A. Assumptions

1. 1987-88 experience in attachment of permanent fund dividends for defaulted student loan accounts peaked, at least for the next few years. A number of the 5,038 individuals, whose PFD was attached, will simply not apply again in 1988-89.
2. The \$100 exemption from claim provided in HB 223 will not encourage those whose PFD's were attached in 1987-88 to apply in 1988-89. For the most part, individuals will not be aware of the new \$100 exemption.

B. Projections

1. The number of PFD attachments for FY89 - 93 are estimated to be:

<u>Year</u>	<u>Attachments</u>
FY88	5,038 (actual)
FY89	4,300
FY90	4,412
FY91	4,540
FY92	4,680
FY93	4,820

2. Since the Postsecondary Commission already has access to PFD attachment, there is no revenue gain to our agency. Rather, we collect \$100 less per successful attachment. Hence, the fiscal note is negative, i.e., lost revenue.

C. Comments

1. The "lost" revenue, that is, PFD funds not received assumes we would attach the entire PFD. This figure may be high, since a number of attachments are not in an amount equal to the entire dividend.
2. Contractual costs are to be paid through interagency transfer to the Department of Revenue for a processing and administration fee.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to remedies for the collection of debt..."
Sponsor: Swackhammer and Larson
Requestor: House Finance

Agency Affected: Labor
BRU: Employment Security

Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		32.0	37.0	42.0	45.0	45.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	32.0	37.0	42.0	45.0	45.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS		32.0	37.0	42.0	45.0	45.0
OTHER						
TOTAL	0	32.0	37.0	42.0	45.0	45.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(see attached)

* see attached FN.
from labor

Prepared by: Joe Sitton, Director Phone: 465-2712
Division: Employment Security Date: 2/5/88

Approved by Commissioner: Jim Sanderson Date: 2/5/88
Agency: Labor

Distribution (by preparer):

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

Analysis of Fiscal Note
For CSHB 223 (Fin)

This bill would require Departments making a claim against an individual's permanent fund dividend to pay the Department of Revenue the administrative costs associated with that claim. Revenue anticipates it will cost them \$10 per claim to attach the dividends. We estimate attaching 1,200 dividends the first year for overpaid Unemployment Insurance benefits, and 2,000 dividends for delinquent contributions to the U.I. trust fund. The number attached for benefit overpayment will increase in future years until 2,500 claims are attached. A summary of our cost, then, is as follows:

	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
U.I. Overpayments Attached	1200	1700	2200	2500	2500
Delinquent Employer Contributions Attached	<u>2000</u>	<u>2000</u>	<u>2000</u>	<u>2000</u>	<u>2000</u>
Total Claims	3200	3700	4200	4500	4500
\$10 per claim	<u>x10</u>	<u>x10</u>	<u>x10</u>	<u>x10</u>	<u>x10</u>
Total Cost	\$32,000	\$37,000	\$42,000	\$45,000	\$45,000

The cost to the department would be paid for with federal funds which are received to administer the Unemployment Insurance program. The collections from the attached dividends would be deposited in the Unemployment Insurance trust fund, which is used to pay the U.I. benefits.

Assumptions:

1. An effective date of January 1, 1989.

**This note received after bill reported out.
 Replaced 21588 note by labor when considered
 in HOUSE OF Rep.*

R10 2-5188
 Recd 2-12-88

**STATE OF ALASKA
 1988 LEGISLATIVE SESSION**

**BILL VERSION: CSHB 223 (Fin)
 PUBLISH DATE: _____**

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to remedies for
 the collection of debt..."
 Sponsor: Swackhammer & Larson
 Requestor: House Rules

Agency Affected: Labor
 BRU: Employment Security
 Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Joe Storer, Director Phone: 465-2719
 Division: Employment Security Date: 2/10/88

Approved by Commissioner: Jim Sampson Date: 2/10/88
 Agency: Labor

- Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

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Analysis of Fiscal Note
For CSHB 223 (Fin)

This bill would require Departments making a claim against an individual's permanent fund dividend to pay the Department of Revenue the administrative costs associated with that claim. This would be an additional procedure the Department of Labor could use in order to collect Unemployment Insurance benefit overpayments and delinquent employer contributions. The Department anticipates no overall additional cost to the Unemployment Insurance program as a result of this new procedure. Savings associated with the new procedures would be used within the program to pay the Department of Revenue the approximately \$10 per claim in administrative costs. The collections from the attached dividends would be deposited in the Unemployment Insurance trust fund, which is used to pay the U.I. benefits. The estimated number of claims attached would be as follows:

	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
Total Claims	3200	3700	4200	4500	4500

Assumptions:

1. An effective date of April 1, 1989.

FISCAL NOTE

REQUEST:

Revision Date: 1/15/88
Title: An act relating to collection of debt involving permanent fund dividends
Sponsor: Judiciary
Requestor: House Judiciary Committee

Agency Affected: Revenue
BRU: Permanent Fund Dividend
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	56.7	56.7	56.7	56.7	56.7
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	83.1	63.1	63.1	63.1	63.1
SUPPLIES	-	1.8	1.8	1.8	1.8	1.8
EQUIPMENT	-	15.6	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	157.2	121.6	121.6	121.6	121.6
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (PFD)	-	157.2	121.6	121.6	121.6	121.6
TOTAL	-	157.2	121.6	121.6	121.6	121.6

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	5	5	5	5	5
TEMPORARY	-	-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Ervin B. Jones
Division: Permanent Fund Dividend

Phone: 465-2323
Date: 1/15/88

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 1/15/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
CSHB 223
1/15/88

Assumptions:

- 1) Since a claim under the proposed section 3 would be infinitely easier for state agencies and the courts to use, those entities would use this mechanism exclusively. It is impossible to estimate the number of such claims the Department of Revenue might receive. However, the following will give some idea of the volume.
 - a) In 1986, the Postsecondary Education Commission was able to get only 800 of their 2,000 attachments through the courts and served on the Department of Revenue. In 1997, under provisions similar to the proposal in this bill, the Commission was able to serve 5,038 certified claims on the Department of Revenue, a 500% increase.
 - b) The Child Support Enforcement Division currently serves approximately 6,012 attachments. This is an almost 50% increase over 1986.
 - c) The court system of Alaska processes approximately 25,000 criminal cases, alone, a percentage of which result in fines.
 - d) Under the present system, private parties account for 8,820 claims each year. Given that the cost of service will stay the same and that the amount of recovery has gone from a potential \$400 to a potential \$700, the number of private party services will increase dramatically.
 - e) In 1987, the department experienced 37,393 claims on Permanent Fund Dividends, almost twice as many as in 1986 and four times as many as in 1985. Even without the passage of this bill, we expect at least 50,000 claims in 1988. With the passage of this bill, the total numbers could easily reach 100,000.
- 2) I would assume and hope that this bill would not effect the 1988 dividend distribution. Assuming that the bill became law in mid-May it would be impossible to get everything in place, and complete the printing, programming, staff recruitment and training necessary to implement the bill before the filing deadline of June 30. By that time, the department has already received thousands of claims and assignments, made under the expectation that they will be processed under the current law. It is arguably not fair to take an applicant's dividend (except \$100) when the applicant filed under a law which provided for a 50% exclusion.

If the provisions of this bill are intended to take effect in mid-stream, a new analysis of costs will have to be done to include the cost of dealing with a very irate public.

Program Summary:

The department's responsibilities under this bill would be as follows:

- a) Forms Printing: The Department of Revenue would print an auxiliary Permanent Fund Dividend "Claim by Government Agency" to be distributed to all agencies identified in the definition of agency. The "PFD Claim form" would require of the agency:
 - 1) The name and address of the agency.
 - 2) The full name, address and birthdate of the obligee.
 - 3) The amount of the claim.
 - 4) A statement of the basis of the claim. (Some consistent, short form of reasons would have to be worked out with the many "agencies." The data capture of a free form reason would be very expensive.)
 - 6) If applicable, a case name and number.
- b) Systems/Programming Changes: The bill will require many changes, including the recognition of a new category of "claim form."
- c) Individual, private claims will continue to be processed one at a time, with unique problems. Claims from state agencies will be automated to some extent. The court system is not be prepared to provide automated services of claims via tape matches, and so the claims will be served and processed the same as private claims.
- d) Agencies which are part of the Alaska State Accounting System will be paid through the system with supporting information provided. The court system will be paid by check.
- e) The department currently receives thousands of contacts from debtors whose dividends have been attached, despite our best efforts to steer their complaints, appeals, etc. to the creditor who served the attachment. At the point when 50,000 - 60,000 Alaskan families are being affected by this expedited process, the number of such contacts, and the number of contacts with the Legislature, the Governor's Office and the Ombudsman is definitely going to increase.

1. Positions:

2 PPT Accounting Clerk I, R8,
@ \$2,270.18/Mo each including
salary and benefits for
8 months = \$36.3

These positions will assist the existing Accounting Clerk II in the processing of the existing attachments and assignments. This also involves correspondence and telephone contact with the many competing garnishors.

3 PPT Data Processing Clerk I,
R8, @ \$2,270.18/Mo each including
salary and benefits for 3 months = 20.4

These positions will perform the
data capture necessary on the
claims to enable the department to
comply with the provisions of
the bill.

Total Personal Services \$56.7

2. Other Costs:

a) Travel: None.

b) Contractual:

Printing \$5.1

Includes printing costs associated
with 75,000 claim forms, 60,000
notices of appeal rights, and
60,000 notices of claim.

Postage 28.0

Includes postage for claim
notices and bulk shipment of
claim forms to agencies.

Data Processing Chargeback from 50.0
Department of Administration
estimated 50.0 in FY89, including
development; 30.0 in years
thereafter.

TOTAL Contractual \$83.1

c) Equipment

Purchase 2 Wang 4250 workstations
to provide access to the PFD
System for the accounting staff = \$4.8

Purchase 3 Wang 4230 workstations
for data capture = 7.2

Purchase 1 Wang VS-100 IOP = 3.6

TOTAL Equipment \$15.6

d) Supplies: \$1.8

TOTAL COST \$157.2

Suggested Amendments:

It is impractical for the Department of Revenue to be sending thousands of notices of claim and appeal rights to applicants, on behalf of other agencies. The notices and all further contact should be by the creditor agency, not Revenue. We will need to work with the concerned agencies and the committee staff to effect this change.

Attachments: None.

Original sponsors: Swackhammer and Larson

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 223 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to remedies for the collection of
7 debt owed to state agencies and courts involving
8 permanent fund dividends, to assignments of divi-
9 dends, and to the exemption for dividends; amending
10 Alaska Rule of Civil Procedure 69; and providing for
11 an effective date."

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

13 * Section 1. AS 09.38.015(a) is amended to read:

14 (a) An individual is entitled to exemption of the following
15 property:

16 (1) a burial plot for the individual and the individual's
17 family;

18 (2) health aids reasonably necessary to enable the indi-
19 vidual or a dependent to work or to sustain health;

20 (3) benefits paid or payable for medical, surgical, or
21 hospital care to the extent they are or will be used to pay for the
22 care;

23 (4) an award under AS 18.67 (Violent Crimes Compensation
24 Board) or a crime victim's reparations Act of another jurisdiction;

25 (5) benefits paid or payable as a longevity bonus under
26 AS 47.45;

27 (6) compensation or benefits paid or payable and exempt
28 under federal law;

29 (7) liquor licenses granted under AS 04;

1 (8) limited entry permits granted under AS 16.43, except as
2 provided in that chapter;

3 (9) that portion of a permanent fund dividend exempted
4 under AS 43.23.065(a).

5 * Sec. 2. AS 09.38.030(b) is amended to read:

6 (b) An individual who does not receive earnings either weekly,
7 semi-monthly or monthly is entitled to a maximum exemption for the
8 aggregate value of cash and other liquid assets available in any month
9 of \$700, except as provided in AS 09.38.050 and AS 43.23.065(a). The
10 term "liquid assets" includes deposits, securities, notes, drafts,
11 accrued vacation pay, refunds, prepayments, and receivables.

12 * Sec. 3. AS 09.38.065(a) is amended to read:

13 (a) Notwithstanding other provisions of this chapter,

14 (1) a creditor may make a levy against exempt property of
15 any kind, except property exempted under AS 43.23.065(a), to enforce a
16 claim for

17 (A) child support;

18 (B) unpaid earnings of up to one month's compensation
19 or the full-time equivalent of one month's compensation for
20 personal services of an employee; or

21 (C) state or local taxes; and

22 (2) a creditor may make a levy against exempt property to
23 enforce a claim for

24 (A) the purchase price of the property or a loan made
25 for the express purpose of enabling an individual to purchase the
26 property and used for that purpose;

27 (B) labor or materials furnished to make, repair,
28 improve, preserve, store, or transport the property; and

29 (C) a special assessment imposed to defray costs of a

1 public improvement benefiting the property.

2 * Sec. 4. AS 43.23.065(a) is amended to read:

3 (a) One hundred dollars [EXCEPT AS PROVIDED IN (b) OF THIS
4 SECTION, 50 PERCENT] of the annual permanent fund dividend payable to
5 an individual is exempt from levy, execution, garnishment, attachment,
6 or any other remedy for the collection of debt. This exemption ap-
7 plies to an eligible individual's permanent fund dividend both before
8 and after payment is made to the individual. No other exemption
9 applies to a dividend. The commissioner shall include the case name
10 and number with a dividend delivered to the court in accordance with a
11 writ of execution. An exemption is not available under this subsec-
12 tion for permanent fund dividends taken to satisfy child support
13 obligations required by court order or decision of the child support
14 enforcement agency under AS 47.23.140 - 47.23.220.

15 * Sec. 5. AS 43.23.065(b) is amended to read:

16 (b) The following claims, or voluntary assignments of dividends
17 in payment or partial payment of the claims, have priority in the
18 order listed over other claims on permanent fund dividends: [AN
19 EXEMPTION IS NOT AVAILABLE UNDER THIS SECTION FOR PERMANENT FUND
20 DIVIDENDS TAKEN TO SATISFY]

21 (1) child support obligations required by court order or
22 decision of the child support enforcement agency under AS 47.23.140 -
23 47.23.220;

24 (2) court ordered restitution under AS 12.55.045 - 12.55.-
25 051 or 12.55.100;

26 (3) a court ordered fine;

27 (4) a court ordered probation fee under AS 12.55.105; or

28 (5) [(4)] a debt owed by an eligible individual to an
29 agency of the state or state court, unless the debt is contested and

1 an appeal is pending, or the time limit for filing an appeal has not
2 expired.

3 * Sec. 6. AS 43.23.067 is amended to read:

4 Sec. 43.23.067. CERTAIN DIVIDEND CLAIMS [CLAIMS OF DEFAULTED
5 SCHOLARSHIP LOANS]. (a) AS 09.38 does not apply to permanent fund
6 dividends taken to satisfy debts listed under AS 43.23.065(b) for
7 which payments are at least 45 days overdue [AS 14.43.120(i)]. Not-
8 withstanding AS 09.35, execution on a claim to satisfy a debt listed
9 under AS 43.23.065(b) for which payments are at least 45 days overdue
10 may be [AS 14.43.120(i) IS] accomplished by delivering a [CERTIFIED]
11 claim to the department containing the following information:

12 (1) the name [AND SOCIAL SECURITY NUMBER] of the individual
13 whose dividend is being claimed and sufficient information to identify
14 the individual;

15 (2) the amount the individual owes to the agency of the
16 state or state court [ON THE SCHOLARSHIP LOAN]; [AND]

17 (3) a statement of the basis for the claim, including the
18 date payment on the debt became due; and

19 (4) a statement that

20 (A) if the debt has not been contested, the individual
21 has had notice of the debt and an opportunity to contest, or, if
22 contested, that the issue has been resolved in favor of the
23 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION];
24 and

25 (B) if the debt has been contested and resolved in
26 favor of the agency or court [ALASKA COMMISSION ON POSTSECONDARY
27 EDUCATION], no appeal is pending, the time limit for filing an
28 appeal has expired, or the appeal has been resolved in favor of
29 the agency or court [COMMISSION].

1 (b) Upon receipt of a claim under (a) of this section the de-
2 partment shall send notice [NOTIFY THE INDIVIDUAL OF THE CLAIM. THE
3 NOTICE SHALL BE SENT] to the address provided in the individual's
4 permanent fund dividend application that contains [AND MUST PROVIDE]
5 the following information:

6 (1) the identity of the agency or court making the claim;

7 (2) the amount of the claim; [AND]

8 (3) a statement of the basis for the claim, including the
9 date payment on the debt became due; and

10 (4) [(2)] notice that the amount of the permanent fund
11 dividend that does not exceed the amount of the claim, after deducting
12 the exemption under AS 43.23.065(a), will [SHALL] be paid to the
13 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION] unless
14 the agency or court [COMMISSION] releases the claim or the individual
15 requests a hearing on the validity of the claim from the agency or
16 court making the claim within 45 [30] days after the date the notice
17 is sent by the department.

18 (c) If a hearing is requested by an individual, the agency or
19 court making the claim shall notify the department. The agency or
20 court making the claim is responsible for affording the individual a
21 hearing on the validity of the claim and notice of any appeal rights
22 the individual may have. A hearing is not required under this sub-
23 section on the validity of the debt that forms the basis for the claim
24 if the individual has already been provided an opportunity for a
25 hearing on that issue. If no notice of a request for a hearing or
26 release of the claim is received by the department from the agency or
27 court [AS 44.62.330 - 44.62.630 APPLY TO A HEARING REQUESTED BY AN
28 INDIVIDUAL UNDER (b)(2) OF THIS SECTION. IF A REQUEST FOR A HEARING
29 IS NOT RECEIVED BY THE DEPARTMENT WITHIN THE REQUIRED TIME LIMIT], the

1 department shall pay to the agency or court [ALASKA COMMISSION ON
2 POSTSECONDARY EDUCATION] the amount of the permanent fund dividend
3 that does not exceed the amount of the claim, after deducting the
4 exemption under AS 43.23.065(a). The commissioner shall include the
5 case name and number with a payment to the court.

6 * Sec. 7. AS 43.23 is amended by adding a new section to read:

7 Sec. 43.23.068. ADMINISTRATIVE COSTS. The department shall
8 charge the claimant or assignor for costs of processing a claim on or
9 assignment of a permanent fund dividend. Fees under this section
10 shall be established by regulation at levels that cover the adminis-
11 trative costs of processing all claims and assignments. The commis-
12 sioner of administration shall separately account for receipts depos-
13 ited in the general fund by the department under this section. The
14 department shall submit to the legislature a request for an appro-
15 priation of the receipts for the costs of processing claims and as-
16 signments each year.

17 * Sec. 8. AS 43.23.067, as amended by sec. 6 of this Act, has the
18 effect of amending Alaska Rule of Civil Procedure 69 by authorizing agen-
19 cies of the state and state courts to execute on permanent fund dividends
20 in certain cases without using the execution procedures provided in that
21 rule.

22 * Sec. 9. AS 43.23.065(c) is repealed.

23 * Sec. 10. This Act takes effect April 1, 1989.

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: CS HB 223
Publish Date: 2-1-88

Revision Date: 2-4-88
Title: An act relating to permanent fund dividends
Sponsor: Swackhammer, Larson
Requestor: Finance

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)				
OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL
REVENUE

FUNDING:		(Thousands of Dollars)				
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: *Jan Strandberg* General Counsel Phone: 264-8215
 Division: Alaska Court System Date: 2-4-88
 Approved by: *Stephanie Cole, for* Arthur H. Snowden, II, Administrative Director Date: 2-4-88
 Agency: Alaska Court System

- Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management & Budget
 Impacted Agency(ies)
 Senate Secretary

FEB 9 1988

ALASKA COURT SYSTEM

CSHB 223 - FISCAL ANALYSIS

The court system anticipates that the Department of Law will use this bill's procedures to collect court-ordered fines and restitution and that the receipts will be returned to the general fund or to the affected victims after deducting the proposed administrative fee. The court system assumes that the fiscal impact of the fee will be offset by the decreased number of writs of execution that must be processed by the clerks of court for state agencies.

Original sponsors: Swackhammer and Larson

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 223 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to remedies for the collection of
7 debt owed to state agencies and courts involving
8 permanent fund dividends, to assignments of divi-
9 dends, and to the exemption for dividends; amending
10 Alaska Rule of Civil Procedure 69; and providing for
11 an effective date."

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

13 * Section 1. AS 09.38.015(a) is amended to read:

14 (a) An individual is entitled to exemption of the following
15 property:

16 (1) a burial plot for the individual and the individual's
17 family;

18 (2) health aids reasonably necessary to enable the indi-
19 vidual or a dependent to work or to sustain health;

20 (3) benefits paid or payable for medical, surgical, or
21 hospital care to the extent they are or will be used to pay for the
22 care;

23 (4) an award under AS 18.67 (Violent Crimes Compensation
24 Board) or a crime victim's reparations Act of another jurisdiction;

25 (5) benefits paid or payable as a longevity bonus under
26 AS 47.45;

27 (6) compensation or benefits paid or payable and exempt
28 under federal law;

29 (7) liquor licenses granted under AS 04;

1 (8) limited entry permits granted under AS 16.43, except as
2 provided in that chapter;

3 (9) that portion of a permanent fund dividend exempted
4 under AS 43.23.065(a).

5 * Sec. 2. AS 09.38.030(b) is amended to read:

6 (b) An individual who does not receive earnings either weekly,
7 semi-monthly or monthly is entitled to a maximum exemption for the
8 aggregate value of cash and other liquid assets available in any month
9 of \$700, except as provided in AS 09.38.050 and AS 43.23.065(a). The
10 term "liquid assets" includes deposits, securities, notes, drafts,
11 accrued vacation pay, refunds, prepayments, and receivables.

12 * Sec. 3. AS 09.38.065(a) is amended to read:

13 (a) Notwithstanding other provisions of this chapter,

14 (1) a creditor may make a levy against exempt property of
15 any kind, except property exempted under AS 43.23.065(a), to enforce a
16 claim for

17 (A) child support;

18 (B) unpaid earnings of up to one month's compensation
19 or the full-time equivalent of one month's compensation for
20 personal services of an employee; or

21 (C) state or local taxes; and

22 (2) a creditor may make a levy against exempt property to
23 enforce a claim for

24 (A) the purchase price of the property or a loan made
25 for the express purpose of enabling an individual to purchase the
26 property and used for that purpose;

27 (B) labor or materials furnished to make, repair,
28 improve, preserve, store, or transport the property; and

29 (C) a special assessment imposed to defray costs of a

1 public improvement benefiting the property.

2 * Sec. 4. AS 43.23.065(a) is amended to read:

3 (a) One hundred dollars [EXCEPT AS PROVIDED IN (b) OF THIS
4 SECTION, 50 PERCENT] of the annual permanent fund dividend payable to
5 an individual is exempt from levy, execution, garnishment, attachment,
6 or any other remedy for the collection of debt. This exemption ap-
7 plies to an eligible individual's permanent fund dividend both before
8 and after payment is made to the individual. No other exemption
9 applies to a dividend. The commissioner shall include the case name
10 and number with a dividend delivered to the court in accordance with a
11 writ of execution. An exemption is not available under this subsec-
12 tion for permanent fund dividends taken to satisfy child support
13 obligations required by court order or decision of the child support
14 enforcement agency under AS 47.23.140 - 47.23.220.

15 * Sec. 5. AS 43.23.065(b) is amended to read:

16 (b) The following claims, or voluntary assignments of dividends
17 in payment or partial payment of the claims, have priority in the
18 order listed over other claims on permanent fund dividends: [AN
19 EXEMPTION IS NOT AVAILABLE UNDER THIS SECTION FOR PERMANENT FUND

20 DIVIDENDS TAKEN TO SATISFY]

21 (1) child support obligations required by court order or
22 decision of the child support enforcement agency under AS 47.23.140 -
23 47.23.220;

24 (2) court ordered restitution under AS 12.55.045 - 12.55.-
25 051 or 12.55.100;

26 (3) a court ordered fine;

27 (4) a court ordered probation fee under AS 12.55.105; or

28 (5) [(4)] a debt owed by an eligible individual to an
29 agency of the state or state court, unless the debt is contested and

1 an appeal is pending, or the time limit for filing an appeal has not
2 expired.

3 * Sec. 6. AS 43.23.067 is amended to read:

4 Sec. 43.23.067. CERTAIN DIVIDEND CLAIMS [CLAIMS OF DEFAULTED
5 SCHOLARSHIP LOANS]. (a) AS 09.38 does not apply to permanent fund
6 dividends taken to satisfy debts listed under AS 43.23.065(b) for
7 which payments are at least 45 days overdue [AS 14.43.120(i)]. Not-
8 withstanding AS 09.35, execution on a claim to satisfy a debt listed
9 under AS 43.23.065(b) for which payments are at least 45 days overdue
10 may be [AS 14.43.120(i) IS] accomplished by delivering a [CERTIFIED]
11 claim to the department containing the following information:

12 (1) the name [AND SOCIAL SECURITY NUMBER] of the individual
13 whose dividend is being claimed and sufficient information to identify
14 the individual;

15 (2) the amount the individual owes to the agency of the
16 state or state court [ON THE SCHOLARSHIP LOAN]; [AND]

17 (3) a statement of the basis for the claim, including the
18 date payment on the debt became due; and

19 (4) a statement that

20 (A) if the debt has not been contested, the individual
21 has had notice of the debt and an opportunity to contest, or, if
22 contested, that the issue has been resolved in favor of the
23 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION];
24 and

25 (B) if the debt has been contested and resolved in
26 favor of the agency or court [ALASKA COMMISSION ON POSTSECONDARY
27 EDUCATION], no appeal is pending, the time limit for filing an
28 appeal has expired, or the appeal has been resolved in favor of
29 the agency or court [COMMISSION].

1 (b) Upon receipt of a claim under (a) of this section the de-
2 partment shall send notice [NOTIFY THE INDIVIDUAL OF THE CLAIM. THE
3 NOTICE SHALL BE SENT] to the address provided in the individual's
4 permanent fund dividend application that contains [AND MUST PROVIDE]
5 the following information:

6 (1) the identity of the agency or court making the claim;

7 (2) the amount of the claim; [AND]

8 (3) a statement of the basis for the claim, including the
9 date payment on the debt became due; and

10 (4) [(2)] notice that the amount of the permanent fund
11 dividend that does not exceed the amount of the claim, after deducting
12 the exemption under AS 43.23.065(a), will [SHALL] be paid to the
13 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION] unless
14 the agency or court [COMMISSION] releases the claim or the individual
15 requests a hearing on the validity of the claim from the agency or
16 court making the claim within 45 [30] days after the date the notice
17 is sent by the department.

18 (c) If a hearing is requested by an individual, the agency or
19 court making the claim shall notify the department. The agency or
20 court making the claim is responsible for affording the individual a
21 hearing on the validity of the claim and notice of any appeal rights
22 the individual may have. A hearing is not required under this sub-
23 section on the validity of the debt that forms the basis for the claim
24 if the individual has already been provided an opportunity for a
25 hearing on that issue. If no notice of a request for a hearing or
26 release of the claim is received by the department from the agency or
27 court [AS 44.62.330 - 44.62.630 APPLY TO A HEARING REQUESTED BY AN
28 INDIVIDUAL UNDER (b)(2) OF THIS SECTION. IF A REQUEST FOR A HEARING
29 IS NOT RECEIVED BY THE DEPARTMENT WITHIN THE REQUIRED TIME LIMIT], the

1 department shall pay to the agency or court [ALASKA COMMISSION ON
2 POSTSECONDARY EDUCATION] the amount of the permanent fund dividend
3 that does not exceed the amount of the claim, after deducting the
4 exemption under AS 43.23.065(a). The commissioner shall include the
5 case name and number with a payment to the court.

6 * Sec. 7. AS 43.23 is amended by adding a new section to read:

7 Sec. 43.23.068. ADMINISTRATIVE COSTS. The department shall
8 charge the claimant or assignor for costs of processing a claim on or
9 assignment of a permanent fund dividend. Fees under this section
10 shall be established by regulation at levels that cover the adminis-
11 trative costs of processing all claims and assignments. The commis-
12 sioner of administration shall separately account for receipts depos-
13 ited in the general fund by the department under this section. The
14 department shall submit to the legislature a request for an appro-
15 priation of the receipts for the costs of processing claims and as-
16 signments each year.

17 * Sec. ^[7]8. AS 43.23.067, as amended by sec. 6 of this Act, has the
18 effect of amending Alaska Rule of Civil Procedure 69 by authorizing agen-
19 cies of the state and state courts to execute on permanent fund dividends
20 in certain cases without using the execution procedures provided in that
21 rule.

22 * Sec. ^[8]9. AS 43.23.065(c) is repealed.

23 * Sec. ^[9]10. This Act takes effect April 1, 1989. *[Immediately under AS 215]*

24 * Sec. ^[9]10.
25
26
27
28
29

**STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: CS HB 223 (State
Publish Date: Affairs)

Revision Date: 1-25-88
Title: An act relating to permanent
fund dividends

Agency Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Swackhammer, Larson
Requestor: Rep. Swackhammer

Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)						
OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL
REVENUE

FUNDING: (Thousands of Dollars)						
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*
Jan Strandberg, General Counsel
Division: Alaska Court System

Phone: 264-8215
Date: 1-25-88

Approved by: *Stephanie Cole, for*
Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Date: 1-25-88

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____ Bill Version: CS HB 223 (State Affairs)
 Publish Date: _____
 Revision Date: 5-5-87 Agency Affected: Alaska Court System
 Title: An act relating to permanent BRU: Trial Courts
 fund dividends
 Sponsor: Swackhammer, Larson Components:
 Requestor: Rep. Swackhammer

EXPENDITURES/REVENUES: (Thousands of Dollars)						
OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
Personal Services	81.3	81.3	81.3	81.3	81.3
Travel
Contractual
Supplies
Equipment	9.2	. . . .	. . . .	. . . .	. . . .
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	90.5	81.3	81.3	81.3	81.3
CAPITAL
REVENUE	See analysis	. . . .	. . . .	. . . .	. . . .

FUNDING: (Thousands of Dollars)						
General Funds	0.0	90.5	81.3	81.3	81.3	81.3
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	90.5	81.3	81.3	81.3	81.3

POSITIONS:						
Full-time	. . . .	1.0	1.0	1.0	1.0	1.0
Part-time	. . . .	3.0	3.0	3.0	3.0	3.0
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: Robert G. Fisher, Fiscal Officer Phone: 264-8215
 Division: Alaska Court System Date: 5-5-87
 Approved by: *Stephanie J. Cole* Deputy Director Date: 5-5-87
 Agency: Alaska Court System

- Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management & Budget
 Impacted Agency(ies)
 Senate Secretary

RECEIVED
 MAY 13 1987
 LEGISLATIVE FINANCE

FISCAL ANALYSIS

CSHB 223 (STATE AFFAIRS)

The court system's fiscal note is based on work requirements attributable to issuing writ of execution. Based on information provided by the Anchorage trial court, it is assumed that fines are due in approximately 1/6 of criminal cases charged under state law (not including traffic infractions). The clerical work require to process a writ of execution will include physical review of the file, cross-checking against various monitoring lists maintained by the clerk's office including those for outstanding warrants, and bookkeeping. All of this work must be completed with a high level of accuracy, since execution on a dividend for a defendant who has already paid the fine could result in costly litigation. The supervisor of the criminal division of the Anchorage clerk's office estimates that approximately three hours will be required to issue a writ of execution and arrange for delivery to the Department of Revenue, as well as to account for the dividend when it is received. Substantial time will also be expended reviewing old files to determine if a writ of execution should be issued to obtain a current dividend.

Although additional clerical positions would be required to perform this function, at an ongoing cost of \$81,300, the state will break even on this expenditure if an average of \$38 is collected from the dividend for each outstanding fine. A review of court records indicates an average fine of \$400 so it appears the work required to issue a writ of execution will be offset by revenue.

ALASKA COURT SYSTEM

CS HB 223 (State Affairs) - FISCAL ANALYSIS

Personal Services:	Salary	Benefits	Total
Court Clerk II, Range 10B, Anchorage, PFT - 12 months	\$22,836	\$8,290	\$31,126
Court Clerk II, Range 10B, Fairbanks, PPT - 6 months	12,870	4,468	17,338
Court Clerk II, Range 10B, Kenai, PPT - 6 months	12,120	4,301	16,421
-----Court Clerk II, Range 10B, Palmer, PPT - 6 months	12,120	4,301	<u>16,421</u>
 Total Personal Services			 81,306

Equipment: (one time cost)

Desk, chair, filing cabinet, and typewriter for each
new employee

9,232

Total First Year Cost

\$90,538
=====

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to remedies for the collection of debt involving PFD's...
Sponsor: Reps. Swackhammer & Larson
Requestor: House Finance

Agency Affected: Commerce & Econ. Dev.
BRU: Occupational Licensing

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

(See attached)

Prepared by: Jennifer Strickler, Mgnt. Analyst
Division: Occupational Licensing

Phone: 465-2144
Date: January 21, 1988

Approved by Commissioner: J. Anthony Smith
Agency: Commerce and Economic Development

Date: 1/21/88

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 223 (SA)

The Division of Occupational Licensing experienced approximately 3% of NSF checks submitted annually for licensing fees during FY 86 and FY 87. At that rate, 3% of the projected FY 88 revenue will total \$55,388.52.

CSHB 223 will allow the division to recover funds for NSF checks through filing a claim against an individual's permanent fund dividend check, after all other attempts to recover the funds are unsuccessful. The impact of the bill should discourage future non-compliance with attempts to recover funds.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "...relating to...the collection of debt involving permanend fund dividends..." BRU: Legal Services
 Sponsor: House Judiciary Committee Components: Operations
 Requestor: House Judiciary Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 12, 1988
Richard Grace Berg Schaible
 Approved by Commissioner: Attorney General Date: January 12, 1988
 Agency: Department of Law

Distribution (by preparer):

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

January 26, 1988

SUBJECT: Remedies for the collection of debt
involving permanent fund dividends
(CSHB 223(Jud))

TO: Representative C.E. Swackhammer

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

Here is the section-by-section summary of CSHB 223(Jud) that you requested.

Sec. 1. Amends the statutes that set out types of property that may not be taken to satisfy a debt by including a reference to the statute exempting a portion of a permanent fund dividend.

Sec. 2. Adds a cross-reference in the provision containing the liquid assets exemption to the permanent fund dividend exemption. Under section 4 of this bill, the exemption for a dividend is limited to \$100, regardless of whether additional amounts might otherwise qualify for exemption under the \$700 liquid assets provision.

Sec. 3. Adds a cross-reference to the provision permitting creditors in certain cases to levy against exempted property, so that it is clear that even in these special cases the exemption provided for under section 4 of this bill remains valid.

Sec. 4. Changes the permanent fund dividend exemption from 50 percent to \$100. Provides that no other exemption applies. Requires the commissioner of revenue to provide the case name and number with a dividend delivered to the court by the department.

Sec. 5. Adds a court ordered fine and a debt owed to the state court to the list of claims that have priority over

Representative C.E. Swackhammer
Page 2
January 26, 1988

other claims on a dividend. Deletes the provision that an exemption is not available for certain claims, so that, under this bill, all claims are subject to the \$100 exemption.

Sec. 6. Amends the provision providing for simplified execution procedures for claims on defaulted scholarship loans to include other priority claims. Requires the debt to be at least 45 days overdue before the simplified procedure applies. Requires a statement of the basis for the claim and the date the claim became due as part of the execution procedure. If requested, requires the agency or court making the claim to afford the individual a hearing on the validity of the claim and notice of appeal rights.

Sec. 7. Provides notice of a court rule change.

Sec. 8. Repeals a subsection the contents of which have been included in the reorganized subsection set out in section 5 of the bill.

Sec. 9. Provides for an immediate effective date.

If I can be of further assistance, please let me know.

TBC:bb
wkb2/003



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

March 26, 1987

MEMORANDUM

TO: Representative C.E. Swackhammer

ATTN: Tom Wright

FROM: Penelope Weyhrauch *mw*
Legislative Analyst

RE: Permanent Fund Dividends: Refusing to Apply
Research Request 87.214

You asked us to contact State agencies and ask them if individuals who owed the State money were refusing to apply for their Permanent Fund Dividend (PFD) because the State would garnish it. In researching your request, I contacted the State agencies which garnish PFDs.

Sandra Beebe, Manager of the Collection Section of the Child Support Enforcement Division of the Department of Revenue, estimated that two to three thousand individuals (of the ten thousand child support cases handled by the division) refuse to apply for their PFDs because they know the checks will be garnished by the State or by the Internal Revenue Service. Ms. Beebe said that one man went to jail rather than apply for his PFD, and another, after finding out that his child support had ended, immediately filed for PFDs for the last four years.

Tammy Ross, with the Division of Employment Security of the Department of Labor, garnishes PFDs for the repayment of unemployment insurance taxes by employers. She says that employers who owe back taxes are usually not aware that garnishment is going to occur until after they have already applied for their PFD. Andrea Wetzstein, with the Benefit Payment Control Division of the department, garnishes PFDs for the repayment of overpaid benefits to unemployed individuals. She believes that some people do not apply for their PFD because it will be garnished. She said that three or four people have told her that they would not apply because it would be garnished.

Representative Swac...ammer
March 26, 1987
Page 2

Cindy Valleho, who acts as a collection agent for the Postsecondary Education Commission, estimated that one percent of the people who are contacted for collection refuse to apply for their PFD because it would be garnished. Jackie Rhine, with the Criminal Division of the Anchorage Court System, said that no efforts have been made by the Court System during the last two years to collect money owed for fines and attorney fees.

* * *

I hope this information is useful to you. If you have any questions or would like additional information, please contact our agency.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

P.O. Box Y, State Capitol
Juneau, Alaska 99811-3100
Mail Stop 3100
(907) 465-3991

March 16, 1987

MEMORANDUM

TO: Representative Swack Swackhammer

ATTN: Tom Wright

FROM: Penelope Weyhrauch
Legislative Analyst

RE: **Outstanding Court Fines: Attaching Permanent Fund Dividends**
Research Request 87.187

You asked for information on the collection of fees and fines levied by the Alaska Court System, and the amount of fees and fines that are presently outstanding. You were interested in the Alaska Court System's collection efforts, particularly the procedures and problems in attaching a debtor's Permanent Fund Dividend (PFD) to pay fines levied by a judicial officer.

Fees and Fines

There are no outstanding filing fees owed to the Alaska Court System because fees are always paid at the time of filing a legal document. Fees are assessed of everyone and are standard--that is, everyone pays the same amount when filing a particular document. Attorney fees could be assessed against a party in a lawsuit, but these fees would generally be payable to the other party and not to the court. However, in a criminal case, a court will appoint an attorney for those who are financially unable to obtain one, but may require that a defendant pay a portion of the attorney's fees.

A fine is a penalty, the amount of which is set on an individual basis by a judicial officer. Karla Forsythe, Staff Counsel for the Alaska Court System, said that there are no centralized records on how much is owed to the State in outstanding fines. She said that each court in the state has its own records, only some of which are computerized. In April 1986, the Court System estimated that over \$5 million was owed for outstanding fines, court appointed attorney fees, and restitution to private parties (Attachment A). Ms. Forsythe said that specific amounts outstanding in each of these categories is not available. She also said that the total amount outstanding has probably increased during the past year.

Collection Efforts

According to Ms. Forsythe, very little is done by the Court System to collect outstanding fines and attorney fees owed to the State. There is no collection agency within the judicial branch, nor does the Alaska Court System believe that the collection of outstanding balances is a judicial function. The Court System believes that collection should be done by the executive branch and has emphasized that in letters to the Attorney General's office (Attachment B). In regard to collection efforts by the Court System, Arthur Snowden, Administrative Director of the Court System, wrote "The Supreme Court has indicated that it is unwise if not unconstitutional as a violation of the doctrine of separation of powers for the court to combine judicial and executive functions."¹ According to Ms. Forsythe, the Attorney General's office has not responded to the Court System's request for executive branch action. Patrick Conheady, Assistant Attorney General, agreed that the collection of fines is an executive branch function.

Bob Fisher, Fiscal Officer for the Court System, was not aware of the collection efforts that had been made by the courts, since that information is not centralized. He suggested that I contact the clerks of the larger Alaska courts. Susan Paterson, Clerk of the Court in Fairbanks, said that over \$8,000 was collected from the assignment of PFDs by defendants with outstanding court fines. (The assignment is the voluntary signing over of an individual's right to a PFD.) David Haas, Clerk of the Court in Juneau, said that no efforts for the collection of outstanding court fines have been made by the Juneau office. I was unable to reach the clerk of the Anchorage court.

Attaching Permanent Fund Dividends

The Department of Revenue is responsible for issuing PFDs. According to Mike McGee, Chief of PFD Operations in the department, State agencies can garnish 100 percent of an individual's PFD if the individual has a debt to the State.² Child support obligations have the highest priority for garnishment. Court-ordered restitution and probation fees are second in priority and all other attachments are applied on a "first come, first served basis."³

¹Letter to Hal Brown, Attorney General, from Arthur Snowden, Administrative Director, Alaska Court System, July 17, 1985.

²Federal agencies may garnish 100 percent of an individual's PFD. All other creditors can garnish only 50 percent of an individual's PFD.

³Alaska Statutes 43.23.065 (Attachment C).

According to Mr. McGee, the garnishment of an individual's PFD is initiated by the Department of Revenue when a court order or an administrative levy is received from a State agency.⁴ An administrative levy occurs when an agency makes an administrative decision that a person has a monetary obligation to the agency. The agency presents a list of persons with obligations to the Department of Revenue and the department matches this with a list of persons receiving PFDs. The dividends of persons with obligations to State agencies are then garnished. For example, the Child Support Enforcement Division of the Department of Revenue routinely uses administrative levies to garnish PFDs of persons who are found to be delinquent in child support payments.

Individuals who do not apply for PFDs have no claim to a dividend and therefore, a State agency to which individuals owe money cannot garnish their PFDs. Mr. McGee said that for a garnishment to occur, a name must match **exactly** the name under which a person applied for a PFD. If the agency sends a name for garnishment that does not have a match in the PFD listing, the PFD will not be garnished.

Ms. Forsythe and Susan Miller, Manager of Special Projects at the Alaska Court System, said that there are several reasons that the Court System has not been more aggressive in garnishing PFDs for the payment of outstanding fines.⁵

- **Responsibility for Collection.** The Court System maintains that the collection of fines is a function of the executive branch and not the judicial system.

- **Court Authority for Garnishment.** According to Ms. Miller, because no statute gives a judicial officer specific authority to garnish an individual's PFD, some judges do not believe that they have the authority to do so. Each judge in the Court System makes his/her own decision regarding the limits of his/her authority if there is no specific legal guideline. Ms. Miller said that it was her opinion that under the common law, courts have the authority to use civil execution procedures to collect fines. Ms. Forsythe said that the legislature could set clear authority for the courts to attach PFDs.

⁴For the purposes of this memorandum, "attaching" and "garnishing" are used interchangeably.

⁵Conference Call, Karla Forsythe and Susan Miller of the Alaska Court System, March 11, 1987.

Attaching Property for the Collection of Criminal Fines. Several attorneys with the Court System with whom I spoke mentioned that they were not sure about the legality of attaching property for outstanding fines levied in a criminal case.⁶ Attaching property has always been associated with civil judgments and imprisonment has been associated with criminal judgments. Patrick Conheady, with the Department of Law, however, believes that AS 12.55.025 (f) establishes clear authority for the garnishing of a defendant's PFD for the payment of an outstanding fine. This statute states that "...a sentence that the defendant pay money, either as a fine or in restitution or both, constitutes a lien in the same manner as a judgment for money entered in a civil action." (Attachment E).

The Civil Execution Process is available for individuals and State agencies who have won a civil judgment against an individual and are attempting to attach property as payment. Alaska courts are required to adhere to the same process as individuals to attach a person's property.⁷ According to Ms. Forsythe, the civil execution process--AS 09.35 and AS 09.38--provides protection to debtors by providing notice and substantial time frame requirements so that debtors are assured notice and time to respond to attachment.

While protecting the debtor, this process would require paperwork, time and manpower of the courts. Many courts do not have the staff or the time to engage in the process. Ms. Forsythe said that the legislature could address this by allowing the court to pursue the attachment of an individual's PFD in an abbreviated process. She suggests that attachment could be as simple as notice to the debtor in the form of a letter. Ms. Forsythe also said that the Court System has been looking into the possibility of using the relatively simple administrative levy process to garnish PFDs, rather than the complex civil execution process.

Exemptions to the Attachment of Property are included in the civil execution process and are available to debtors. According to Ms. Forsythe, there has been confusion over whether the exemption of liquid assets in AS 09.38.030(b) (Attachment F), applies to PFDs or not. This exemption allows an individual to retain cash and other liquid assets of at least \$700 per month. Thus, an individual's PFD could be exempt from attachment if this statute applies.

⁶Susan Patterson, Clerk of the Court in Fairbanks, said that some people believe that AS 12.55.051 limits the penalty for the nonpayment of outstanding court fines to imprisonment (Attachment D).

⁷This process is detailed in Attachment G, "Execution Procedure for Judgment Creditors", Alaska Court System Handbook, July 1986, pp. 10 - 16.

Ms. Forsythe said that some people argue that AS 09.38.030(b) does not apply to PFDs because AS 43.23.065 (Attachment C) provides the only statutory exemption for the attachment of PFDs.⁸ Alaska Statute 43.23.065 exempts one-half of a person's PFD from attachment except for child support, court-ordered restitution, and debts owed to State agencies. An outstanding fine is considered a debt to the State and, in that situation, an individual's PFD would not be included in the partial exemption provided by AS 43.23.065.⁹

* * *

I hope this information is useful to you. If you would like us to research the collection of court fines in other states, we would be happy to do so. If you have any questions or would like additional information, please contact our agency.

Attachment

⁸This statute is not a part of the civil execution process.

⁹Ms. Forsythe said that the legislature could aid the Court System in the collection of PFDs for outstanding fines by clarifying these statutes. She suggested legislation which states that the liquid assets exemption in AS 09.38.030(b) does not apply to PFDs, and a clarification as to whether or not AS 43.23.065 is the sole statutory exemption relating to PFDs.



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

April 3, 1986

Harold M. Brown, Attorney General
Department of Law
P. O. Box K
Juneau AK 99811

Dear Hal:

Although I have not yet received your response to my July 17, 1985 letter requesting that the Department of Law assume its statutory responsibility for collection of monies due to the state on court judgments, I have asked each judicial district to compile case history information about monies due.

Each judicial district was recently asked to provide my office with a statement of all outstanding amounts due to the state from court orders for fines and payment for court-appointed attorneys, and for restitution due to private parties. Preliminary figures for the total of these three categories are as follows:

First district - \$1.5 million
Second district - \$ 23,500
Third district - \$3.4 million
Fourth district - \$1.1 million

The accounting information received in my office must be checked against actual court records before we can assure accuracy in each individual case. We are prepared to pull files and verify amounts due in each case we will be turning over to your office for collection. Please let me know your plans in this regard, so that I can plan for an orderly reporting process.

Thank you for your help and cooperation. Please contact me if you have any questions.

Sincerely,

/s/

Arthur H. Snowden, II
Administrative Director

cc: Chief Justice Rabinowitz
Presiding Judges
Area Court Administrators
Stephanie Cole
Karla Forsythe
Bob Fisher

LOAN PROGRAM

INDIRECT LENDERS (BOND SALES)

AK HOUSING FINANCE CORP (ALL PROGRAMS)	129,345,072.00
AK INDUSTRIAL DEVELOPMENT AUTHORITY	
AIDA PURCHASED	23,769,309.00
APPROPRIATED TO AIDA	2,585,041.00
AK MEDICAL FACILITY AUTHORITY	.00
AK MUNICIPAL BOND BANK	.00

DIRECT LENDERS (APPROPRIATIONS)

AGRICULTURAL REVOLVING LOAN FUND	4,792,353.00
ALASKA POWER AUTHORITY	
POWER PROJECT FUND	.00
RURAL ELECT. REVOLVING LOAN FUND	.00
ALASKA RESOURCES CORPORATION	7,718,760.00
ALTERNATE TECH. REVOLVING LOAN FUND	474,000.00
BULK FUEL REVOLVING LOAN FUND	4,000.00
CHILD CARE FACILITY REVOLVING LOAN FUND	184,000.00
COMMERCIAL FISHING REVOLVING LOAN FUND	3,104,000.00
FISHERIES ENHANCEMENT REVOLV. LOAN FUND	1,553,900.00
GRAIN RESERVE LOAN FUND	33,802.00
HISTORICAL DISTRICT REVOLVING LOAN FUND	.00
HOUSING ASSISTANCE LOAN FUND	4,875,346.00
MED. MALPRACTICE LIABILITY LOAN FUND	.00
MINING LOAN FUND	3,877,000.00
POWER DEVELOPMENT REVOLVING LOAN FUND	.00
RESIDENTIAL ENERGY CONSERVATION FUND	118,000.00
SCHOLARSHIP REVOLVING LOAN FUND	49,275,864.00
SMALL BUSINESS REVOLVING LOAN FUND	4,343,000.00
TEACHER SCHOLARSHIP LOAN FUND	.00
TOURISM REVOLVING LOAN FUND	108,000.00
VETERANS REVOLVING LOAN FUND	1,353,000.00
WATER RESOURCES REVOLVING LOAN FUND	.00

<u>TOTAL LOANS IN DEFAULT</u>	<u>237,514,447.00</u>
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SUMMARY OF DEFAULT LOANS
STATE LOAN PROGRAMS
FOURTH QUARTER, FY 87

	LOAN PROGRAM
<u>INDIRECT LENDERS (BOND SALES)</u>	
AK HOUSING FINANCE CORP (ALL PROGRAMS)	129,345,072.00
AK INDUSTRIAL DEVELOPMENT AUTHORITY	
AIDA PURCHASED	23,769,309.00
APPROPRIATED TO AIDA	2,585,041.00
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VETERANS REVOLVING LOAN FUND	1,353,000.00
WATER RESOURCES REVOLVING LOAN FUND	.00
<hr/>	
<u>TOTAL LOANS IN DEFAULT</u>	<u>237,514,447.00</u>

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300

CSHB 223 Basic Public Policy Issues

(1) This legislation establishes a "quick-take" procedure for collecting state debts owned by an individual through the expeditious claiming of all but \$100 of the person's Permanent Fund Dividend. (The Child Support Enforcement Division alone could still claim all of the dividend).

The effect of this bill is to treat Permanent Fund Dividends differently from other property. This procedure for attachment of dividends would not be available for claiming other property such as longevity bonuses. In fact, these forms of property as well as a few others are completely exempt from virtually any claim, even under the normal claims process through court proceedings. (AS 09.38.15 and AS 09.38.065.)

The Legislature may wish to consider whether longevity bonuses, for example, should remain totally exempt from nearly all claims. Like Permanent Fund Dividends, longevity bonuses are also distributed by the state without regard to income or wealth. Additionally, the Legislature may wish to establish the same process of claims for longevity bonuses which this bill will create for Permanent Fund Dividends.

(2) This legislation would allow all state agencies and state courts to make claims on Permanent Fund Dividends through a "quick-take" procedure. Some agencies may choose to use this expeditious procedure, and some may not. Some agencies who have a large number of large debts may not use the process, believing that it would not be worthwhile to collect a small portion of a large debt. This could result in unfairness, as low-income Alaskans may turn out to be much more likely to have their dividends claimed to satisfy state debts than other Alaskans are.

Solutions to this problem include:

(a) requiring all state agencies and state courts to use either the "quick-take", claims procedure or the normal court process to claim dividends of debtors within a two-year period of the debt becoming overdue or entering into default; or

(b) including legislative intent language to the effects of (a); or
(c) requiring all state agencies and state courts to report to the legislature annually on their debt collection efforts, including reports of their attachments of all forms of property. The reports would include explanations of any decisions not to use the expeditious claims procedure.

(3) The Permanent Fund Dividend creates the visible link between each Alaskan and the Permanent Fund. Establishing this abbreviated procedure for the government to seize the dividend could weaken that link.

Sincerely,

A handwritten signature in cursive script, appearing to read "H. Malone". The signature is written in dark ink and is positioned above the typed name and title.

Hugh Malone
Commissioner of Revenue

HM:CG:m11

MEMORANDUM

State of Alaska

Department of Law

TO: Hugh Malone
Commissioner
Department of Revenue

DATE: February 3, 1988

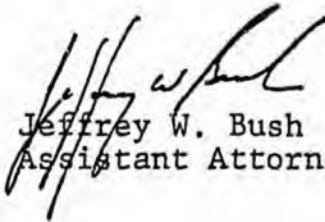
FILE NO:

TEL. NO.: 465-3600

SUBJECT: Your memorandum concerning
CSHB 223

RECEIVED
ALASKA DEPARTMENT OF REVENUE

FEB 03 1988

FROM: 
Jeffrey W. Bush
Assistant Attorney General

OFFICE OF THE COMMISSIONER

The Department of Law has some concerns with respect to your memorandum that outlines basic public policy issues concerning CSHB 223. Your undated memorandum was distributed to the House Finance Subcommittee on February 2, 1988. Specifically, our comments are directed to your policy issue (2), in which you express a concern that certain agencies may use the process outlined in the bill while others may not, resulting in some form of unfairness. The Department of Law will necessarily be responsible, either directly or indirectly (by advising agencies), for a significant percentage of these collections. Please be assured that this department will utilize whatever collection procedures are available to maximize the state's return, regardless of the size of the outstanding debt, subject only to availability of personnel.

Our primary concern with your memorandum is with respect to the proposed alternative solutions to the problem you surmise. First, you propose mandating that all state agencies and courts choose between either this procedure or standard execution procedures for claims on permanent fund dividends. This proposal fails to take into consideration the fact that in certain cases where the debt is small (e.g., a \$10 parking fine), an agency must be able to decide that it is not worth the administrative trouble to go through any collection procedures whatsoever. Mandating collection in such a case is simply poor administration. Also, many agencies are facing personnel shortages, and as a result, a particular agency may be able to enforce some of its claims through the expedited procedure and not others. For example, the Department of Law performs collections in countless types of cases, including civil and criminal attorney's fees awards, court fines, loan collections, civil judgments, and tax collections. Different attorneys work in different areas of the law, each with varied and constantly changing work loads and different amounts of time available to devote to collection activities. Office files may be closed now and reopened later when collection again becomes possible. Given available resources, we cannot commit ourselves to filing a claim in every case. The department must have the flexibility to choose the appropriate execution procedures to utilize on a case-by-case basis.

Hugh Malone, Commissioner
Department of Revenue

February 3, 1988
Page 2

With respect to your third proposed solution, requiring all state agencies and courts to report to the legislature annually on their debt collection efforts, we believe this is unrealistic for the Department of Law, given the diversity and scope of our cases and our collection efforts.

Please contact me if you wish to discuss this matter further.

JWB:nb

cc w/enc: Bob Evans
Legislative Section
Office of the Governor

Art Peterson
Legislation Section
AGO

Ron Lorensen
Deputy Attorney General
AGO

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 2, 1987

The Hon. C. E. Swackhammer
Alaska State House
P.O. Box V
Juneau, AK 99811

Re: House Bill 223, relating to
permanent fund dividends
Our File No.: 663-87-0446

Dear Representative Swackhammer:

By memorandum dated March 19, 1987, you asked us to review a proposed bill to permit agencies to apply for and receive the permanent fund dividends of individuals who owe debts to the agencies. Specifically, you asked us to comment on the tax consequences of the proposal and to make any other general comments regarding the draft. A later version of this proposed bill was recently introduced as House Bill 223, and we will direct our comments to the version currently under consideration.

Federal Tax Implications

House Bill 223 would permit an "agency," defined as any state agency, state court, or municipality, to apply for and receive the permanent fund dividend of an individual who owes a debt to the agency. Assuming the procedure proposed to implement this process is workable (see discussion below), you have asked whether the agency's action will have federal income tax consequences to the individual. Although an absolute answer is impossible without either an Internal Revenue Service official ruling or a court decision, we believe a court would characterize this transaction as a discharge of a taxpayer's debt, thereby constituting income to the taxpayer under 26 U.S.C. § 61.

We understand that you asked the same question of the Legislative Affairs Agency. By memorandum dated March 20, 1987, Theresa L. Bannister stated that she could not, with any certainty, provide an answer to your question. On the one hand, the discharge of a taxpayer's debts is generally included in a taxpayer's gross income under 26 U.S.C. § 61. On the other hand, because the agency would claim the dividend on behalf of the taxpayer, who would never claim the dividend himself, the transaction could be viewed as simply a

DEPARTMENT OF REVENUE
ADMINISTRATIVE SERVICES

APR 03 1987

Carol
4/15/87 *Currently in*
H(SA), Jud. Admin. Div.

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

P.O. BOX K-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

HB 223

The Hon. C. E. Swackhammer
Alaska State House
File No.: 663-87-0446

April 2, 1987
Page 2

taxpayer's debt by the agency. Thus the transaction might be excluded from income as a gift under 26 U.S.C. § 102.

We believe the better argument is that the discharge of a debt under these circumstances would constitute gross income. The bill permits agencies other than the state to apply for and receive an individual's dividend. In those cases where a municipality received an individual's dividend, an actual transfer of funds would take place from the dividend fund (within the state general fund) to the municipality. This would clearly be a discharge of debt, rather than a write-off of debt. Although the question is arguably closer where the state is the debtor, the language of the bill implies an actual discharge of a debt by the state, rather than a gift. Finally, as noted by Tamara Brandt Cook, Director of the Legal Services Division, Legislative Affairs Agency, in a memorandum dated March 23, 1987, were this to be interpreted as a gift, the transaction could violate article IX, section 6, of the Alaska Constitution. Given the generally aggressive posture of the Internal Revenue Service, which views any exemption claim with skepticism, we believe the IRS would treat any agency claim for a permanent fund dividend as taxable income to the individual.

Other Legal Issues

In addition to the tax issues, this bill raises other legal issues which deserve discussion. First, as outlined by Ms. Cook, this legislation would be subject to challenge under the due process requirements of the state and federal constitutions, because by exempting these transactions from the normal execution procedures in AS 09.25, the bill does not provide for notice and prior hearing before the seizure of the individual's property. Balancing the interest of the individual in a prior hearing against the interest of the agency in efficient government operations, and taking into account the relatively slight chance of a permanent deprivation in the event of an agency mistake, we believe the legislation might withstand a due process challenge. However, the only thing we can say with any certainty is that a challenge would likely occur.

Second, although providing an exemption from AS 09.35, the bill fails to mention applicable court rules. The Alaska Supreme Court has provided specific procedures for execution on judgments in Civil Rule 69. Because this rule specifically provides that enforcement of a judgment be by a writ of execution unless otherwise directed by the court, this rule would supercede the new legislation unless the bill is amended to specifically amend Civil Rule 69. Of course, the bill will then need to be

The Hon. C. E. Swackhammer
Alaska State House
File No.: 663-87-0446

April 2, 1987
Page 3

~~adopted by a two-thirds vote in each house of the legislature.
Alaska Constitution art. IV, § 15.~~

Third, this legislation raises some questions concerning how a particular agency is going to determine whether or not a particular individual "is eligible to receive the dividend." AS 43.23.005(a) provides as part of the eligibility requirements for a permanent fund dividend that the individual be a state resident. "Residency" is established when an individual is physically present in the state "with the intent to remain in the state indefinitely and to make a home in the state." AS 01.10.055(a). Since residency depends on the state of mind of the individual, it is difficult to see how an agency could defend its "belief" that the individual is a resident, should the belief be challenged by the individual himself. Although it is unlikely that many will make such a challenge, since the only negative consequence of the agency's actions will be an increased tax liability and the individual will gain an even larger debt write-off, such a challenge is certainly plausible, and if made, the agency's position would likely be indefensible.

We also note a few other practical questions raised by the bill. The bill fails to mention what procedures to use if the agency's claim is for less than the full amount of the dividend. In that case, is the entire check sent to the agency, or should the Department of Revenue issue separate checks to both the individual and the agency? Also, the bill provides that the Commissioner of the Department of Revenue must notify the individual that the execution has occurred. In addition to increasing the Department of Revenue's administrative costs, this procedure may cause an individual who wishes to challenge the action to believe that his challenge should be made through the administrative processes at the Department of Revenue. We believe it would be more appropriate for the agency making the claim to defend against any challenge, and we would therefore recommend that the bill be amended to add an additional section specifying that any challenge to the execution should be made to the agency making the claim.

Finally, we believe sec. 5 of the bill should be clarified. The reference to AS 09.38.085 should also include a reference to AS 09.38.075(b) and AS 09.38.080(c). Further, it appears that the final two sentences being added to AS 43.23.-065(a) refer only to situations where the court is the creditor.

The Hon. C. E. Swackhammer
Alaska State House
File No.: 663-87-0446

April 2, 1987
Page 4

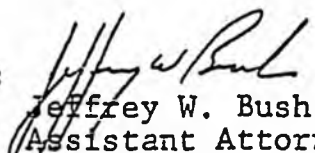
If this is the drafter's intent, we would recommend that these two sentences be moved to a separate subsection.

We hope this answers your questions.

Sincerely,

GRACE BERG SCHAIBLE
ACTING ATTORNEY GENERAL

By:


Jeffrey W. Bush
Assistant Attorney General

JWB:lb

cc: ✓ Ervin Jones, Director
Administrative Services
Department of Revenue

Arthur H. Peterson, AAG
Department of Law

Original sponsors: Swackhammer and Larson

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 223 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act relating to remedies for the collection of
7 debt involving permanent fund dividends and to the
8 exemption for dividends; amending Alaska Rule of
9 Civil Procedure 69; and providing for an effective
10 date."

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

12 * Section 1. AS 09.38.015(a) is amended to read:

13 (a) An individual is entitled to exemption of the following
14 property:

15 (1) a burial plot for the individual and the individual's
16 family;

17 (2) health aids reasonably necessary to enable the indi-
18 vidual or a dependent to work or to sustain health;

19 (3) benefits paid or payable for medical, surgical, or
20 hospital care to the extent they are or will be used to pay for the
21 care;

22 (4) an award under AS 18.67 (Violent Crimes Compensation
23 Board) or a crime victim's reparations Act of another jurisdiction;

24 (5) benefits paid or payable as a longevity bonus under
25 AS 47.45;

26 (6) compensation or benefits paid or payable and exempt
27 under federal law;

28 (7) liquor licenses granted under AS 04;

29 (8) limited entry permits granted under AS 16.43, except as

1 provided in that chapter;

2 (9) that portion of a permanent fund dividend exempted
3 under AS 43.23.065(a).

4 * Sec. 2. AS 09.38.030(b) is amended to read:

5 (b) An individual who does not receive earnings either weekly,
6 semi-monthly or monthly is entitled to a maximum exemption for the
7 aggregate value of cash and other liquid assets available in any month
8 of \$700, except as provided in AS 09.38.050 and AS 43.23.065(a). The
9 term "liquid assets" includes deposits, securities, notes, drafts,
10 accrued vacation pay, refunds, prepayments, and receivables.

11 * Sec. 3. AS 09.38.065(a) is amended to read:

12 (a) Notwithstanding other provisions of this chapter,

13 (1) a creditor may make a levy against exempt property of
14 any kind, except property exempted under AS 43.23.065(a), to enforce a
15 claim for

16 (A) child support;

17 (B) unpaid earnings of up to one month's compensation
18 or the full-time equivalent of one month's compensation for
19 personal services of an employee; or

20 (C) state or local taxes; and

21 (2) a creditor may make a levy against exempt property to
22 enforce a claim for

23 (A) the purchase price of the property or a loan made
24 for the express purpose of enabling an individual to purchase the
25 property and used for that purpose;

26 (B) labor or materials furnished to make, repair,
27 improve, preserve, store, or transport the property; and

28 (C) a special assessment imposed to defray costs of a
29 public improvement benefiting the property.

1 * Sec. 4. AS 43.23.065(a) is amended to read:

2 (a) One hundred dollars [EXCEPT AS PROVIDED IN (b) OF THIS
3 SECTION, 50 PERCENT] of the annual permanent fund dividend payable to
4 an individual is exempt from levy, execution, garnishment, attachment,
5 or any other remedy for the collection of debt. This exemption ap-
6 plies to an eligible individual's permanent fund dividend both before
7 and after payment is made to the individual. No other exemption
8 applies to a dividend. The commissioner shall include the case name
9 and number with a dividend delivered to the court in accordance with a
10 writ of execution.

11 * Sec. 5. AS 43.23.065(b) is amended to read:

12 (b) The following claims, or voluntary assignments of dividends
13 in payment or partial payment of the claims, have priority in the
14 order listed over other claims on [AN EXEMPTION IS NOT AVAILABLE UNDER
15 THIS SECTION FOR] permanent fund dividends: [TAKEN TO SATISFY]

16 (1) child support obligations required by court order or
17 decision of the child support enforcement agency under AS 47.23.140 -
18 47.23.220;

19 (2) court ordered restitution under AS 12.55.045 - 12.55.-
20 051 or 12.55.100;

21 (3) a court ordered fine;

22 (4) a court ordered probation fee under AS 12.55.105; or

23 (5) [(4)] a debt owed by an eligible individual to an
24 agency of the state or state court, unless the debt is contested and
25 an appeal is pending, or the time limit for filing an appeal has not
26 expired.

27 * Sec. 6. AS 43.23.067 is amended to read:

28 Sec. 43.23.067. CERTAIN DIVIDEND CLAIMS [CLAIMS OF DEFAULTED
29 SCHOLARSHIP LOANS]. (a) AS 09.38 does not apply to permanent fund

1 dividends taken to satisfy debts listed under AS 43.23.065(b) for
2 which payments are at least 45 days overdue [AS 14.43.120(i)]. Not-
3 withstanding AS 09.35, execution on a claim to satisfy a debt listed
4 under AS 43.23.065(b) for which payments are at least 45 days overdue
5 [AS 14.43.120(i)] is accomplished by delivering a [CERTIFIED] claim to
6 the department containing the following information:

7 (1) the name [AND SOCIAL SECURITY NUMBER] of the individual
8 whose dividend is being claimed and sufficient information to identify
9 the individual;

10 (2) the amount the individual owes to the agency of the
11 state or state court [ON THE SCHOLARSHIP LOAN]; [AND]

12 (3) a statement of the basis for the claim, including the
13 date payment on the debt became due; and

14 (4) a statement that

15 (A) if the debt has not been contested, the individual
16 has had notice of the debt and an opportunity to contest, or, if
17 contested, that the issue has been resolved in favor of the
18 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION];
19 and

20 (B) if the debt has been contested and resolved in
21 favor of the agency or court [ALASKA COMMISSION ON POSTSECONDARY
22 EDUCATION], no appeal is pending, the time limit for filing an
23 appeal has expired, or the appeal has been resolved in favor of
24 the agency or court [COMMISSION].

25 (b) Upon receipt of a claim under (a) of this section the de-
26 partment shall send notice [NOTIFY THE INDIVIDUAL OF THE CLAIM. THE
27 NOTICE SHALL BE SENT] to the address provided in the individual's
28 permanent fund dividend application that contains [AND MUST PROVIDE]
29 the following information:

1 (1) the identity of the agency or court making the claim;
2 (2) the amount of the claim; [AND]
3 (3) a statement of the basis for the claim, including the
4 date payment on the debt became due; and

5 (4) [(2)] notice that the amount of the permanent fund
6 dividend that does not exceed the amount of the claim, after deducting
7 the exemption under AS 43.23.065(a), will [SHALL] be paid to the
8 agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCATION] unless
9 the agency or court [COMMISSION] releases the claim or the individual
10 requests a hearing on the validity of the claim from the agency or
11 court making the claim within 30 days after the date the notice is
12 sent by the department.

13 (c) If a hearing is requested by an individual, the agency or
14 court making the claim shall notify the department. The agency or
15 court making the claim is responsible for affording the individual a
16 hearing on the validity of the claim and notice of any appeal rights
17 the individual may have. A hearing is not required under this sub-
18 section on the validity of the debt that forms the basis for the
19 claim. If no notice of a request for a hearing or release of the
20 claim is received by the department from the agency or court [AS 44.-
21 62.330 - 44.62.630 APPLY TO A HEARING REQUESTED BY AN INDIVIDUAL UNDER
22 (b)(2) OF THIS SECTION. IF A REQUEST FOR A HEARING IS NOT RECEIVED BY
23 THE DEPARTMENT WITHIN THE REQUIRED TIME LIMIT], the department shall
24 pay to the agency or court [ALASKA COMMISSION ON POSTSECONDARY EDUCA-
25 TION] the amount of the permanent fund dividend that does not exceed
26 the amount of the claim, after deducting the exemption under AS 43.-
27 23.065(a). The commissioner shall include the case name and number
28 with a payment to the court.

29 * Sec. 7. AS 43.23.067, as amended by sec. 6 of this Act, has the

1 effect of amending Alaska Rule of Civil Procedure 69 by authorizing
2 agencies of the state and state courts to execute on permanent fund divi-
3 dends in certain cases without using the execution procedures provided in
4 that rule.

5 * Sec. 8. AS 43.23.065(c) is repealed.

6 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

Original sponsors: Swackhammer and Larson

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 223 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to remedies for the collection of
7 debt involving permanent fund dividends and to the
8 exemption for dividends; and providing for an effec-
9 tive date."

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

11 * Section 1. AS 43.23.065(a) is amended to read:

12 (a) One hundred dollars [EXCEPT AS PROVIDED IN (b) OF THIS
13 SECTION, 50 PERCENT] of the annual permanent fund dividend payable to
14 an individual is exempt from levy, execution, garnishment, attachment,
15 or any other remedy for the collection of debt. This exemption ap-
16 plies to an eligible individual's permanent fund dividend both before
17 and after payment is made to the individual. Notwithstanding other
18 laws, no other exemption applies to a dividend. A creditor is not
19 required to serve the individual with notice of levy under AS 09.38.-
20 080(c) and 09.38.085. A writ of execution may be served on the com-
21 missioner by certified mail under the rules of court for service of
22 a civil summons. The commissioner shall include the case name and
23 number with a dividend delivered to the court in accordance with a
24 writ of execution.

25 * Sec. 2. AS 43.23.065(b) is amended to read:

26 (b) The following claims, or voluntary assignments of dividends
27 in payment or partial payment of the claims, have priority in the
28 order listed over other claims on [AN EXEMPTION IS NOT AVAILABLE UNDER
29 THIS SECTION FOR] permanent fund dividends; [TAKEN TO SATISFY]

1 (1) child support obligations required by court order or
2 decision of the child support enforcement agency under AS 47.23.140 -
3 47.23.220;

4 (2) court ordered restitution under AS 12.55.045 - 12.55.-
5 051 or 12.55.100;

6 (3) a court ordered fine;

7 (4) a court ordered probation fee under AS 12.55.105; or

8 (5) [(4)] a debt owed by an eligible individual to an
9 agency of the state, state court, or municipality unless the debt is
10 contested and an appeal is pending, or the time limit for filing an
11 appeal has not expired.

12 * Sec. 3. AS 43.23.065 is amended by adding new subsections to read:

13 (d) AS 09.38 does not apply to permanent fund dividends taken to
14 satisfy debts listed under (b) of this section.

15 (e) Before payment of part of an individual's permanent fund
16 dividend is made to a creditor under this section the commissioner
17 shall provide the individual with

18 (1) notification of the claim and amount claimed;

19 (2) a statement of the basis for the claim; and

20 (3) if applicable, identification of the case under which
21 the claim has been made, including court case name and case number:

22 * Sec. 4. AS 43.23.065(c) is repealed.

23 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

1 IN THE HOUSE

BY SWACKHAMMER AND LARSON

2 HOUSE BILL NO. 223

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 43.23.005 is amended by adding a new subsection to
10 read:

11 (d) An agency may claim all or part of the permanent fund divi-
12 dend of an individual the agency has reason to believe is eligible to
13 receive the dividend if the individual has an outstanding obligation
14 of a type listed under AS 43.23.065(b). If an agency claims all or
15 part of a dividend, the money shall be applied toward fulfillment of
16 the outstanding obligation. A claim under this subsection has prior-
17 ity over a claim under (a) or (c) of this section and priority over a
18 claim under AS 43.23.015(e). If more than one agency claims all or
19 part of a dividend, the claims have priority in the order listed under
20 AS 43.23.065(b). Before payment of all or part of an individual's
21 dividend is made to an agency, the commissioner shall provide the
22 individual with

23 (1) notification of the claim and amount claimed;
24 (2) a statement of the basis for the claim; and
25 (3) if applicable, identification of the case under which
26 the claim has been made.

27 * Sec. 2. 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 for a

1 claim under AS 43.23.005(d) must include a statement by the agency of
2 the basis for its belief that the individual is' eligible to receive
3 the dividend and a statement of the basis of the agency's claim in-
4 cluding, if applicable, identification of the case under which the
5 claim has been made. The application for a claim under AS 43.23.-
6 005(a) or (c) must contain a statement of eligibility and a certifica-
7 tion of residency in substantially the following form:

8 I certify that

9 () I am a state resident on the date of this application and I
10 have been a state resident for at least six months immediately preced-
11 ing the date of this application; or

12 () (name), the individual on whose behalf I am applying, is a
13 state resident and has been a state resident for at least six months
14 immediately preceding the date of this application.

15 I understand that a false claim of residency to obtain a
16 permanent fund dividend for myself or for another is a criminal of-
17 fense and that if convicted I will forfeit future permanent fund
18 dividends and that I must repay all permanent fund dividends that have
19 been paid to me. I understand that this penalty is in addition to any
20 criminal penalties imposed.

21 _____
22 (signature of individual, parent, guardian,
23 or other authorized representative)

24 * Sec. 3. AS 43.23.015(c) is amended to read:

25 (c) Except for claims under AS 43.23.005(d) and as provided in
26 (d) of this section or as may be provided by regulations adopted by
27 the department, an individual must personally sign the application for
28 permanent fund dividends, including the certification of residency
29 required under (b) of this section.

1 * Sec. 4. AS 43.23.015(e) is amended to read:

2 (e) Except as provided in AS 43.23.005(d), if [IF] a govern-
3 mental entity [PUBLIC AGENCY] claims a permanent fund dividend on
4 behalf of an individual, the governmental entity [PUBLIC AGENCY] shall
5 hold the dividend in trust for the individual. Money held in trust
6 under this subsection shall be invested by the commissioner in accor-
7 dance with AS 37.10.070.

8 * Sec. 5. AS 43.23.065 is amended to read:

9 Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. (a)
10 Except as provided in (b) of this section, 50 percent of the annual
11 permanent fund dividend payable to an individual is exempt from levy,
12 execution, garnishment, attachment, or any other remedy for the col-
13 lection of debt. This exemption applies to an eligible individual's
14 permanent fund dividend both before and after payment is made to the
15 individual. Notwithstanding other laws, no other exemption applies to
16 a dividend. A creditor is not required to serve the individual with
17 notice of levy under AS 09.38.085. A writ of execution may be served
18 on the commissioner by a court by certified mail. The commissioner
19 shall include the case name and number with a dividend delivered to
20 the court in accordance with a writ of execution.

21 (b) An exemption is not available under this section for perma-
22 nent fund dividends taken to satisfy

23 (1) child support obligations required by court order or
24 decision of the child support enforcement agency under AS 47.23.140 -
25 47.23.220;

26 (2) court ordered restitution under AS 12.55.045 - 12.55.-
27 051 or 12.55.100;

28 (3) a court ordered fine;

29 (4) a court ordered probation fee under AS 12.55.105; or

1 (5) [(4)] a debt owed by an eligible individual to an
2 agency [OF THE STATE], unless the debt is contested and an appeal is
3 pending, or the time limit for filing an appeal has not expired.

4 (c) A claim [CLAIMS] listed in (b) of this section or a volun-
5 tary assignment of a dividend in payment or partial payment of a debt
6 listed in (b) of this section has [HAVE] priority in the order listed
7 over other claims on a permanent fund dividend.

8 * Sec. 6. AS 43.23.065 is amended by adding new subsections to read:

9 (d) AS 09.38 does not apply to permanent fund dividends taken to
10 satisfy debts under (b) of this section. Notwithstanding AS 09.35,
11 execution on a claim listed under (b) of this section is accomplished
12 by delivering a certified copy of the court order or judgment to the
13 commissioner.

14 (e) Before payment of all or part of an individual's permanent
15 fund dividend is made to a creditor under this section the commission-
16 er shall provide the individual with

- 17 (1) notification of the claim and amount claimed;
18 (2) a statement of the basis for the claim; and
19 (3) if applicable, identification of the case under which
20 the claim has been made.

21 * Sec. 7. AS 43.23.095 is amended by adding a new paragraph to read:

22 (9) "agency" means a state agency, state court, or munic-
23 ipality.

24 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

1 IN THE HOUSE . BY SWACKHAMMER AND LARSON

2 HOUSE BILL NO. 223

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. AS 43.23.005 is amended by adding a new subsection to
10 read:

11 (d) An agency may claim all or part of the permanent fund divi-
12 dend of an individual the agency has reason to believe is eligible to
13 receive the dividend if the individual has an outstanding obligation
14 of a type listed under AS 43.23.065(b). If an agency claims all or
15 part of a dividend, the money shall be applied toward fulfillment of
16 the outstanding obligation. A claim under this subsection has prior-
17 ity over a claim under (a) or (c) of this section and priority over a
18 claim under AS 43.23.015(e). If more than one agency claims all or
19 part of a dividend, the claims have priority in the order listed under
20 AS 43.23.065(b). Before payment of all or part of an individual's
21 dividend is made to an agency, the commissioner shall provide the
22 individual with

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11 ing the date of this application; or

12 () (name), the individual on whose behalf I am applying, is a
13 state resident and has been a state resident for at least six months
14 immediately preceding the date of this application.

15 I understand that a false claim of residency to obtain a
16 permanent fund dividend for myself or for another is a criminal of-
17 fense and that if convicted I will forfeit future permanent fund
18 dividends and that I must repay all permanent fund dividends that have
19 been paid to me. I understand that this penalty is in addition to any
20 criminal penalties imposed.

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23 or other authorized representative)

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26 (d) of this section or as may be provided by regulations adopted by
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28 permanent fund dividends, including the certification of residency
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4 behalf of an individual, the governmental entity [PUBLIC AGENCY] shall
5 hold the dividend in trust for the individual. Money held in trust
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12 execution, garnishment, attachment, or any other remedy for the col-
13 lection of debt. This exemption applies to an eligible individual's
14 permanent fund dividend both before and after payment is made to the
15 individual. Notwithstanding other laws, no other exemption applies to
16 a dividend. A creditor is not required to serve the individual with
17 notice of levy under AS 09.38.085. A writ of execution may be served
18 on the commissioner by a court by certified mail. The commissioner
19 shall include the case name and number with a dividend delivered to
20 the court in accordance with a writ of execution.

21 (b) An exemption is not available under this section for perma-
22 nent fund dividends taken to satisfy

23 (1) child support obligations required by court order or
24 decision of the child support enforcement agency under AS 47.23.140 -
25 47.23.220;

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1 (5) [(4)] a debt owed by an eligible individual to an
2 agency [OF THE STATE], unless the debt is contested and an appeal is
3 pending, or the time limit for filing an appeal has not expired.

4 (c) A claim [CLAIMS] listed in (b) of this section or a volun-
5 tary assignment of a dividend in payment or partial payment of a debt
6 listed in (b) of this section has [HAVE] priority in the order listed
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9 (d) AS 09.38 does not apply to permanent fund dividends taken to
10 satisfy debts under (b) of this section. Notwithstanding AS 09.35,
11 executi on a claim listed under (b) of this section is accomplished
12 by delivering a certified copy of the court order or judgment to the
13 commissioner.

14 (e) Before payment of all or part of an individual's permanent
15 fund dividend is made to a creditor under this section the commission-
16 er shall provide the individual with

17 (1) notification of the claim and amount claimed;

18 (2) a statement of the basis for the claim; and

19 (3) if applicable, identification of the case under which
20 the claim has been made.

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22 (9) "agency" means a state agency, state court, or munic-
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