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HOUSE COMMITTEE REPORT

(7)

Date referred: 5/6/87

FURTHER REFERRALS: Finance

DATE: 5-13-87

The State Affairs Committee has considered CSSB 227(SA)

"An Act relating to claims of state agencies to permanent fund dividends."

RECOMMENDS:

- replace with HCS SB 227 (SA) 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. same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Terry Marton

Legna Hoffman

Mr. Walker

Cliff Davidson

SIGNING OTHER RECOMMENDATIONS:

[Signature]
Chairman's signature

Original sponsors: Uehling and Faiks

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 227 (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 claims of state agencies to
7 permanent fund dividends."

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

9 * Section 1. AS 43.23 is amended by adding a new section to read:

10 Sec. 43.23.067. CLAIMS OF STATE AGENCIES. (a) AS 09.38 does
11 not apply to permanent fund dividends taken to satisfy debts under
12 AS 43.23.065(b)(4). Notwithstanding AS 09.35, execution on a claim
13 under AS 43.23.065(b)(4) may be accomplished by delivering a certified
14 claim to the department containing the following information:

15 (1) the name and social security number of the individual
16 whose dividend is being claimed;

17 (2) the amount the individual owes to the agency; and

18 (3) a statement that

19 (A) the debt has not been contested, or, if contested,
20 that the issue has been resolved in favor of the agency; and

21 (B) if the debt has been contested and resolved in
22 favor of the agency, no appeal is pending, the time limit for
23 filing an appeal has expired, or the appeal has been resolved in
24 favor of the agency.

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

29 (1) the identity of the agency that has made the claim;

1 (2) the amount of the claim;

2 (3) notice that the amount of the permanent fund dividend
3 that does not exceed the amount of the claim shall be paid to the
4 agency unless the agency releases the claim or the individual requests
5 a hearing on the validity of the claim from the agency making the
6 claim within 10 days after the date the notice is sent by the
7 department.

8 (c) If a hearing is requested by an individual under (b)(3) of
9 this section, the agency making the claim shall notify the department.
10 The agency making the claim is responsible for affording the individ-
11 ual a hearing on the validity of the claim. A hearing is not required
12 under this subsection on the validity of the debt that forms the basis
13 for the claim. AS 44.62.330 - 44.62.630 apply to the hearing. If no
14 notice of a request for a hearing or release of the claim is received
15 by the department from the agency, the department shall pay the amount
16 of the permanent fund dividend that does not exceed the amount of the
17 claim to the agency making the claim.



Official Business

Alaska State Legislature

House

P.O. BOX V
State Capitol
Juneau, Alaska 99811

SENATE BILL 227

FILE CONTENTS

1. AN ACT RELATING TO CLAIMS OF STATE AGENCIES TO PERMANENT FUND DIVIDENDS
2. MEMORANDUM FROM SENATOR DEALING TO REPRESENTATIVE OLIVER, DATED MAY 3, 1987
3. SECTIONAL ANALYSIS OF SB 227
4. AS 43.23.055

FISCAL NOTE

- A. DEPARTMENT OF EDUCATION, POSTSECONDARY EDUCATION, STUDENT LOAN ADMINISTRATION AND STUDENT LOAN FUND, DATED MAY 3, 1987: -\$670,000
- B. DEPARTMENT OF EDUCATION, POSTSECONDARY EDUCATION, STUDENT LOAN ADMINISTRATION AND STUDENT LOAN FUND, DATED 4-8-87: --
- C. DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, OCCUPATIONAL LICENSING: --
- D. DEPARTMENT OF REVENUE, ADMINISTRATIVE SERVICES: \$6,500

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

April 8, 1987

SUBJECT: Sectional analysis of SB 227

TO: Senator Rick Uehling

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

Here is the sectional analysis that you requested of SB 227 dealing with claims of state agencies to permanent fund dividends.

Sec. 1. A new section is added providing that AS 09.38 (Alaska Exemptions Act) does not apply to a dividend taken to satisfy a debt of a state agency. Execution on such a claim is accomplished by delivering a certified claim to the Department of Revenue containing certain information. Upon receipt of the claim the department is required to notify the individual and provide certain information, including notice that the individual may request a hearing within 10 days after the date the notice is sent by the department. AS 44.62.330 - 44.62.630 (Administrative Procedure Act) apply to a hearing requested by an individual. If no request for a hearing is received, the department is required to pay the amount of the permanent fund dividend that does not exceed the amount of the claim to the agency making the claim.

You have also asked whether the bill presents due process problems. I believe the bill would survive a due process challenge because the individual whose dividend is being claimed is given notice of that fact and accorded a hearing on the claim at his request. The hearing is subject to provisions of the Administrative Procedure Act that relate to administrative hearings, which set out procedures to be followed in the hearing and includes the opportunity to appeal a final administrative order to the superior court (AS 44.62.560). It is only when no request for a hearing is received that the department may proceed to pay money from the dividend to the agency making the claim.

TBC:mkr
m10/121

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STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____
Revision Date: May 5, 1987
Title: Claims to Permanent Fund
Dividend
Sponsor: Uehling, Paiks
Requestor: Senate Finance

Bill Version: SB 227
Publish Date: April 16, 1987

Agency Affected: Education
BRU: Postsecondary Education
Components: Student Loan Admin.
Student Loan Fund

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-

CAPITAL	N.A.	(670.0)	(300.0)	(300.0)	(300.0)	(300.0)
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REVENUE						
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FUNDING: (Thousands of Dollars)

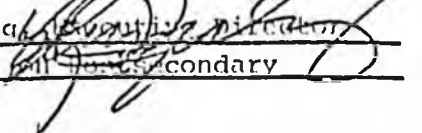
GENERAL FUND	N.A.	(670.0)	(300.0)	(300.0)	(300.0)	(300.0)
FEDERAL FUNDS						
OTHER						
TOTAL	N.A.	(670.0)	(300.0)	(300.0)	(300.0)	(300.0)

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Loan impact is estimated at \$670,000 based upon what would have been recovered in FY 87. This will vary with dividend amount and default rate.

Prepared by: Kerry D. Romesburg  Phone: 465-2854
Division: Alaska Commission on Postsecondary Education Date: May 5, 1987
Approved by Commissioner: _____ Date: _____
Agency: _____

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



**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SB 227
Publish Date : 4-1-87

Revision Date: _____

Agency Affected: Education

Title: Re: Claims to Permanent
Fund Dividends

BRU: Postsecondary Commission

Sponsor: Uehling, Faiks

Components: Student Loan Admin.

Requestor: Senate State Affairs

Student Loan Fund

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	N.A.	-0-	-0-	-0-	-0-	-0-

CAPITAL	N.A.	-----	see attached	-----		
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	N.A.	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	N.A.					

POSITIONS:

FULL-TIME	N.A.	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

(see attached page)

Prepared by: Kerry D. Romesburg, Executive Director Phone: 465-2854
Division: Postsecondary Education Commission Date: 4-2-87

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):

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

SB 227
FISCAL IMPACT ANALYSIS

1. Operating budget: The Commission currently runs a tape match of defaulted borrowers against the permanent fund dividend file, so there would be no additional administrative expense associated with this bill.
2. Loan fund (Capital): SB 227 will produce a positive revenue source for the student loan revolving fund. Since the amount of the dividend varies, and since the number of defaulters applying will also vary, it is not possible to predict the fiscal impact with any accuracy. However, if the terms of SB 227 had been in place in FY87, the impact would have been:

<u>Default Match</u>	<u>Claims Filed</u>	<u>Dividends "missed"</u>	<u>Funds Not Received</u>
2,000	800	1,200	\$673,200

Hence, this bill could produce \$400,000 to \$800,000 annually if the application and default rate remains relatively constant.

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE



Bill Version: SB 227, HB 223
Publish Date: 4/1/87

REQUEST: _____

Revision Date: 4/13/87

Agency Affected: Commerce & Economic Dev.

Title: An Act relating to claims of state agencies to permanent fund dividends.

BRU: Occupational Licensine

Sponsor: Senators Uehling and Faiks

Components: _____

Requestor: Senator Uehling

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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, Management Analyst
Division: Occupational Licensing

Phone: 465-2144
Date: 4/13/87

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

Date: _____

Distribution (by preparer):

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

Sr 227 /HB 223

The Division of Occupational Licensing has experienced approximately 3% of NSF checks submitted annually for licensing fees in FY 86 and FY 87. At that rate, 3% of the projected FY 88 revenue will total \$36,600.00.

SB 227 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 1987 LEGISLATIVE SESSION
FISCAL NOTE

D

REQUEST _____

Bill Version: SB 227

Publish Date: _____

Revision Date: _____

Agency Affected: Revenue

Title: An act relating to claims of state agencies to PFD's

BRU: Administrative Services

Sponsor: Uehling and Faiks

Components: _____

Requestor: State Affairs, Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	4.2	4.2	4.2	4.2	4.2
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	2.2	2.2	2.2	2.2	2.2
SUPPLIES	-	0.1	0.1	0.1	0.1	0.1
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	6.5	6.5	6.5	6.5	6.5
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	6.5	6.5	6.5	6.5	6.5
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	6.5	6.5	6.5	6.5	6.5

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	1	1	1	1	1
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

(See attached)

Prepared By: Ervin W. Jones
Division: Administrative Services

Phone: 465-2313
Date: 4/13/87

Approved by Commissioner: J. Malone
Agency: Revenue

Date: 4/13/87

Distribution (by Agency preparing fiscal note):

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

Department of Revenue
Administrative Services Division
Fiscal Note Analysis
SB 227
4/6/87

Assumptions:

- 1) It is assumed that the term "state agency" does not include the court system.
- 2) It is assumed that all state agencies which now execute judgments by serving the Department of Revenue with writs will instead use the procedure prescribed in this bill. In 1986, the department received approximately 5,000 writs from state agencies under AS 43.23.065(b)(4).
- 3) Given the ease by which the debtor agency is allowed to attach the PFD, an estimated increase of 3,000 claims is expected.
- 4) It is assumed that certified claims filed before April 1 of each calendar year will be returned to the agency as the department will not be holding revenue for the individual until he files a PFD application. Claims filed between April 1 and December 31 will be held and matched against the current year dividend file and will be honored in the order provided in AS 43.23.065.
- 5) Competing claims from different agencies will be honored in the order received.
- 6) Since Section 1 of the bill requires the Department of Revenue to send a notice to the address on the PFD file, the department will hold the claim until the PFD application is on file before sending the notice.

Program Summary:

The Department of Revenue will print a form for state agencies to use in claiming the permanent fund dividend of eligible individuals. This will ensure a uniform presentation of information required by the bill and will facilitate processing of the claim. Claims received will be matched against the PFD file. Except for claims filed between April 1 and July 31 of each year, if a payable application is not on file, the claim will be returned to the agency, marked "no funds available." If, on the other hand, a payable application is on file, the Department of Revenue will send the applicant a notice as described in Section 1.

During the period of April 1 - July 31 of each year, the current year's PFD file is being compiled. Agency claims filed during this period will be held until the current year PFD file is completed and will then be matched, resulting in either a notice of no funds available to the agency or a notice to the dividend applicant.

The provision of subparagraph (c) in the new Sec. AS 43.23.067 implies that the Department of Revenue will hold hearings under AS 44.62.330 - 44.62.630 if requested by the dividend applicant within 10 days of the date of the aforementioned notice. It would seem much more appropriate and practical for the agency making the claim to defend against any challenge, and we would therefore recommend that the bill be amended to provide that any challenge to the execution should be made to the agency making the claim. Unless the claim is released, it will be honored at the time of payment. Without access to the factual record supporting the claim and without the specialized program knowledge of the agency filing the claim, it would be impossible for Revenue to provide such a hearing.

At the time of payment of the dividend, a notice of payment and/or garnishment will be sent to the applicant, notifying him of the attachment(s) and/or assignment(s) and/or dividend contributions which reduced his dividend.

1. Positions

1 PPT Document Processor, R7,
@ \$2,117.76/Mo including salary
and benefits for 2 months = \$4.2

This position will assist in the processing of agency claims and the issuance of the related notices to PFD applicants.

Other Costs:

Travel: None

Contractual:

Printing of 10,000 agency claim forms and 10,000 notices to applicants = \$0.4

Postage for 8,000 notices to applicants = 1.8

TOTAL Contractual \$2.2

Supplies: \$0.1

Equipment: None

TOTAL Costs \$6.5