

HB

144

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 10, 1993

FURTHER REFERRALS:

Date of Committee Action: 3/12/93

The FINANCE Committee considered:

HB 144

HOUSE BILL NO. 144

FEE FOR PFD ASSIGNMENTS/CLAIMS

"An Act relating to fees for certain costs of administering the permanent fund dividend program."

RECOMMENDATIONS: the same title
 be replaced with _____ a new title
 have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact Revenue

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Donald J. Larson</i>		<i>Eileen P. Muehlen</i>		X	
<i>Terry Martin</i>		<i>Mark Hanley</i>		X	
		<i>Ken Parnell</i>		X	
		<i>Jan Gussendorf</i>		X	
		<i>Tom Hoffmann</i>			✓
		<i>Tom Brown</i>			✓
		<i>Gene Theriault</i>			✓
		<i>Mike Navarre</i>			✓
		<i>Richard Foster</i>			☹

Donald J. Larson
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 144

Revision Date: _____ Dept. Affected: Revenue
 Title: An Act relating to fees for certain costs of administering the BRU: Permanent Fund Dividend
permanent fund dividend program. Component: Permanent Fund Dividend
 Sponsor: House Finance Committee
 Requestor: House Finance Committee COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:	60.0	60.0	60.0	60.0	60.0	60.0
----------------------	------	------	------	------	------	------

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary)

See Attached.

Prepared by: Thomas C. Williams Phone: 465-2323
 Division: Permanent Fund Dividend Date: 02-17-93
 Approved by Commissioner: [Signature] Date: 2/17/93
 Agency: Department of Revenue

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF HB 144
As of February 17, 1993

Expenditures

The only costs to implement this legislation would relate to the required regulation notice and adoption procedures plus a limited amount of data processing programming.

If the required regulations were advertised in conjunction with other pending regulation amendments, additional costs of this legislation would not be significant.

Revenues

The revenues generated by the adoption of a processing fee would be deposited *into the dividend fund*, offsetting the costs of processing attachments.

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
1989 - 1992 PFD ATTACHMENT & ASSIGNMENT ACTIVITY

As of January 25, 1993

<u>PFD Year Services Held (A)</u>	<u>4 Year Total</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>
<u>Attachments (B)</u>					
IRS (Federal Taxes) (C)	48,877	18,166	12,413	11,548	6,750
Non-municipal Writs served by					
Process Servers (Judgements) (C)	30,114	9,374	8,218	6,462	6,060
ACPE (Student Loan Delinquencies)	26,678	8,575	7,282	5,997	4,824
CSED (Child Support Delinquencies)	29,118	7,892	7,571	7,112	6,543
Municipal Writs (Fines & Taxes)	5,644	1,200	1,224	1,323	1,897
PFD (Repayment of Dividends)	2,513	721	760	549	483
Certified Services (Judgements) (C)	565	565	(D)	(D)	(D)
DOL (Employment Taxes)	577	139	121	127	190
IEAD (State Taxes)	191	20	34	52	85
Court Orders (Judgements)	<u>27</u>	<u>5</u>	<u>1</u>	<u>20</u>	<u>1</u>
<u>Total Attachments</u>	144,304	46,657	37,624	33,190	26,833
<u>Assignments (E)</u>	<u>15,960</u>	<u>4,628</u>	<u>3,753</u>	<u>4,502</u>	<u>3,077</u>
<u>Total PFD Year Services Held</u>	<u>160,264</u>	<u>51,285</u>	<u>41,377</u>	<u>37,692</u>	<u>29,910</u>

Notes

(A) The figures reported for 1989-1991 are for the period April 1 through March 31 of the year indicated. The 1992 figures are for the period April 1, 1992 through December 31, 1992.

(B) The attachment figures represent the number of attachments that actually were held. Some of the attachments received are returned because they are for an individual who is not on file. Others correspond to individuals who are on file but are released by the individual or agency filing the attachment before the department makes payment. The figures reported correspond to unreleased attachments held during the periods indicated.

Not all these attachments received funds. For example, an individual may have been attached by both CSED and the IRS. If the CSED attachment equaled or exceeded the amount of the dividend, CSED would receive the entire dividend, and IRS would receive nothing. However, the statistics would still reflect 2 attachments.

(C) Until December 30, 1990 the exemption from attachment for these items was 50%. Effective January 1, 1991 the exemption from attachment for these items was reduced to 45% by § 3, Ch 198, SLA 1990.

(D) Certified services were only available starting in 1992 as a result of amendments to AS 43.23.065 enacted by Ch 52, SLA 92.

(E) Since 1989 assignments can only be made to governmental agencies or a court.

ELECTIVE DISTRICT 14
ELMENDORF A.F.B.
EAST ANCHORAGE
GOVERNMENT HILL

REP. TERRY MARTIN



HOME
355 DONNA DR., #11
ANCHORAGE, AK 99504
PHONE: 333-6990

DURING SESSION
P.O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE: 465-3783

Alaska House of Representatives

MEMORANDUM

TO: House Finance Committee

FROM: Representative Terry Martin *T.M.*

DATE: February 16, 1993

SUBJECT: House Bill 144,

An Act relating to fees for certain costs of administering
the permanent fund dividend program.

This bill is designed to transfer the costs of administering permanent fund dividend assignments and attachments back to the person whose financial obligations are the cause of the assignment or attachment.

As you know, the amount of every Alaskan's permanent fund dividend is affected by the cost of operating the Permanent Fund Dividend Division. The attached table shows that the Division processed over 51,000 attachments and assignments in 1992.

If we pass HB 144, the cost of processing the attachment or assignment will be paid by the obligor instead of being absorbed by the Division as a cost of doing business. The net effect of this bill will be that every Alaskan's dividend will be increased, albeit by a small amount; and those Alaskans whose financial practices cause their dividends to be attached or assigned will pay a fee for the cost of the extra handling and processing of their PFDs.

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
1989 - 1992 PFD ATTACHMENT & ASSIGNMENT ACTIVITY

As of January 25, 1993

<u>PFD Year Services Held (A)</u>	<u>4 Year Total</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>
<u>Attachments (B)</u>					
IRS (Federal Taxes) (C)	48,877	18,166	12,413	11,548	6,750
Non-municipal Writs served by					
Process Servers (Judgements) (C)	30,114	9,374	8,218	6,462	6,060
ACPE (Student Loan Delinquencies)	26,678	8,575	7,282	5,997	4,824
CSED (Child Support Delinquencies)	29,118	7,892	7,571	7,112	6,543
Municipal Writs (Fines & Taxes)	5,644	1,200	1,224	1,323	1,897
PFDC (Repayment of Dividends)	2,513	721	760	549	483
Certified Services (Judgements) (C)	565	565	(D)	(D)	(D)
DOL (Employment Taxes)	577	139	121	127	190
LEAD (State Taxes)	191	20	34	52	85
Court Orders (Judgements)	27	5	1	20	1
<u>Total Attachments</u>	144,304	46,657	37,624	33,190	26,833
<u>Assignments (E)</u>	15,960	4,628	3,753	4,502	3,077
<u>Total PFD Year Services Held</u>	<u>160,264</u>	<u>51,285</u>	<u>41,377</u>	<u>37,692</u>	<u>29,910</u>

Notes

(A) The figures reported for 1989-1991 are for the period April 1 through March 31 of the year indicated. The 1992 figures are for the period April 1, 1992 through December 31, 1992.

(B) The attachment figures represent the number of attachments that actually were held. Some of the attachments received are returned because they are for an individual who is not on file. Others correspond to individuals who are on file but are released by the individual or agency filing the attachment before the department makes payment. The figures reported correspond to unreleased attachments held during the periods indicated.

Not all these attachments received funds. For example, an individual may have been attached by both CSED and the IRS. If the CSED attachment equaled or exceeded the amount of the dividend, CSED would receive the entire dividend, and IRS would receive nothing. However, the statistics would still reflect 2 attachments.

(C) Until December 30, 1990 the exemption from attachment for these items was 50%. Effective January 1, 1991 the exemption from attachment for these items was reduced to 45% by § 3, Ch 198, SLA 1990.

(D) Certified services were only available starting in 1992 as a result of amendments to AS 43.23.065 enacted by Ch 52, SLA 92.

(E) Since 1989 assignments can only be made to governmental agencies or a court.

(8) adopt regulations that establish procedures for an individual to apply to have a dividend warrant reissued if it is returned to the department as undeliverable or it is not paid within two years of the date of its issuance; however, the department may not establish a time limit within which an application to have a warrant reissued must be filed. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984; am § 3 ch 54 SLA 1988; am § 5 ch 68 SLA 1990; am § 14 ch 4 SLA 1992)

Effect of amendments. — The 1992 amendment, effective January 1, 1993, re-wrote paragraph (2) and added paragraph (8).

Effective date of amendment. — The

amendment to (2) of this section, and the addition of (8) of this section, made by § 14, ch. 4, SLA 1992, are effective January 1, 1993. For the statute as it read before that date, see the main pamphlet.

Sec. 43.23.065. Exemption of and levy on permanent fund dividends. (a) Except as provided in (b) of this section, 45 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by certified mail, return receipt requested. Upon receipt of a writ by certified mail, return receipt requested, the commissioner shall deliver that portion of the dividend executed upon to the court along with the case name and number.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support enforcement agency under AS 25.27.140 — 25.27.220;

(2) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100;

(3) claims on defaulted scholarship loans under AS 43.23.067;

(4) court ordered fines;

(5) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired.

(c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend whether payments are sought through legal actions for the collection of debts or through assignments from the debtor.

(d) An assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend for a year may not be accepted by the department before April 1 of that

same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend. The department shall include the case number with a dividend or portion of a dividend transmitted to the court in response to a writ of execution or other court order. At the time payment is made to the court, the department shall send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains

(1) notification that all or part of the individual's dividend has been seized under a writ of execution or court order;

(2) the name and address of the court that issued the writ or order;

(3) the case number for which the writ or order was issued;

(4) the amount seized under the writ or order; and

(5) notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986; am § 3 ch 26 SLA 1989; am § 3 ch 198 SLA 1990; am §§ 3, 4 ch 52 SLA 1992)

Effect of amendments. — The 1992 amendment, effective June 11, 1992 added the last three sentences in subsection (a); in subsection (b), added paragraphs (3) and (4), redesignated former paragraph (3) as paragraph (5), and made

stylistic changes; added "whether payments are sought through legal actions for the collection of debts or through assignments from the debtor" to subsection (c); and added subsection (d).

Sec. 43.23.067. Claims of defaulted scholarship loans. (a) AS 09.38 does not apply to permanent fund dividends taken under AS 14.43.120(i). Notwithstanding AS 09.35, execution on a claim under AS 14.43.120(i) is accomplished by delivering a certified claim to the department containing the following information:

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

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

(3) a statement that

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

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

(b) The Alaska Commission on Postsecondary Education shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim; and

(2) notice that the amount of the permanent fund dividend that does not exceed the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education unless the commission releases the claim or the individual requests a hearing within 30 days after the date the notice is sent by the commission.

(c) AS 44.62.330 — 44.62.630 apply to a hearing requested by an individual under (b)(2) of this section. (§ 18 ch 92 SLA 1987; am §§ 5, 6 ch 52 SLA 1992)

Effect of amendments. — The 1992 amendment, effective June 11, 1992, in subsection (b), rewrote the first sentence and substituted "commission" for "department" in paragraph (2); and rewrote subsection (c).

Sec. 43.23.069. Assignments. (a) Except as provided in (b) of this section, a person eligible to receive a permanent fund dividend may not assign the right to the dividend. An attempted assignment of the right to receive a permanent fund dividend is against public policy and is void.

(b) A person may assign the right to receive a permanent fund dividend to a federal, state, or municipal government agency or to a court.

(c) For purposes of this section, "state agency" includes a regional housing authority created under AS 18.55.996. (§ 15 ch 4 SLA 1992; am § 17 ch 4 SLA 1992)

Revisor's notes. — Subsection (c) enacted as AS 43.23.095(b). Renumbered in 1992. SLA 1992 makes this section effective April 1, 1992, in accordance with AS 01.10.070(c).

Effective dates. — Section 21, ch. 4,

Sec. 43.23.095. Definitions. In this chapter,

(1) "Alaska permanent fund" means the fund established by art. IX, § 15 of the state constitution;

(2) *[Repealed, § 38 ch 168 SLA 1990.]*

(3) *[Repealed, § 38 ch 168 SLA 1990.]*

(4) "disabled" means physically or mentally unable to complete and sign an application due to a serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism or other cause; "disabled" does not mean "incompetent";

(5) "dividend fund" means the fund established by AS 43.23.045;

(6) "individual" means a natural person;

(7) "permanent fund dividend" means a right to receive a payment from the dividend fund;

(8) "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state under the requirements of AS 01.10.055 or, if the individual is not physically