

HB

75

HFIN

FILE



FISCAL NOTE

No. 2Bill Version: CSHB 75 (JUD)(H) Publish Date: 1/26/94

STATE OF ALASKA 1994 LEGISLATIVE SESSION

BILL NO.

Revision Date: 01-18-94
 Title: Qualifications For PFD's By Military
 Sponsor: MULDER, Martin
 Requestor: House Judiciary

Dept. Affected: Revenue
 BRU: Permanent Fund Dividend
 Component: Permanent Fund Dividend
 COMPONENT SERIAL NO. 981

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
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						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
----------------------	-----	-----	-----	-----	-----	-----

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary.)

See Pages 2 and 3

Prepared by: Thomas C. Williams *Thomas C. Williams*
 Division: Permanent Fund Dividend
 Approved by Commissioner: *[Signature]*
 Agency: Department of Revenue

Phone: 465-2323
 Date: 01-18-94
 Date: 1/18/94

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

COMMITTEE COPY

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF CS HB 75 (JUD) (8-LS0372\J)

January 18, 1994

This committee substitute substantially expands allowable absences to enable residents to remain eligible for a dividend while absent from Alaska to accompany an individual who, by virtue of their maintenance of residency in another state, has declared that they intend to go somewhere other than Alaska to remain permanently. The resident's departure with that non-resident spouse would strongly suggest that the resident would again follow the non-resident when the non-resident retired to their state of residency, making the resident's declared "intent" suspect.

Allowing residents to maintain eligibility for the dividend program based on accompanying a nonresident member of the military would likely increase the population of eligible applicants by as many as several thousand by:

- a. encouraging virtually all current non-resident spouses of non-resident military members living in Alaska to declare Alaska residency, knowing that they *and their children* will continue to remain eligible once they leave the state;
- b. substantially increasing the number of dividends issued to individuals living out of state;
- c. substantially increasing the likelihood of paying individuals who have taken all the proper steps to establish and maintain Alaska residency without truly having the actual requisite intent to remain permanently or to return to Alaska to remain permanently.

This committee substitute version would also generally eliminate the ability of a resident spouse to piggy-back onto the allowable absence of their resident spouse, except in those cases where an allowably absent individual is a member of the military. Section 1 would require the department to simply ignore certain facts relevant to confirming an individual's intent. This opens a wide door to fraudulent filings and compromises the ability of the Department to ensure compliance with the principal eligibility requirement, the intent to remain in Alaska permanently.

On December 16, 1993, Superior Court Judge Dana Fabe upheld the department's position that accompanying a non-resident military member on an absence does not in itself allow an individual to remain eligible for a dividend. Judge Fabe concluded that "there is a rational relationship between the expressed legitimate purposes of the Dividend program, on the one hand, and , on the other, ... for denying an "allowable absence" exception to residents who accompany their nonresident spouses on allowable absences." [p. 17, *Zeiler v. State of Alaska*, 3AN-92-1567 Civil] She went on to agree that, "It is reasonable to allow residents to "piggyback" onto an allowable absence of a resident spouse, because the fact that the spouse is still a resident is a factor tending to show "an intent to return to Alaska and remain permanently in the state". That factor

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF CS HB 75 (JUD) (8-LS0372\J)

January 18, 1994

does not exist for residents who accompany nonresident spouses out of state. For the same reason, it is reasonable to require additional proof of intent from a Dividend applicant whose spouse is not a resident. [pp.17-18, *Zeiler v. State of Alaska*, 3AN-92-1567 Civil]

In addition, as long as residency for purposes of the dividend program is defined in terms of allowable absences, the prohibition from considering the residency of an individual's spouse proposed in section 1 of this committee substitute conflicts with the "piggyback" amendment proposed in section 2, as pointed out by Judge Fabe in her decision.

As reflected in section 1(b), Chapter 21, SLA 1980, the original intention of the dividend program was in part "to encourage persons to maintain their residence (*not just residency*) in Alaska and to reduce population turnover in the state." [*emphasis and comment added*] Significantly expanding the allowable absence provisions, sending more and more dividend dollars to individuals living out of state, is not consistent with the stated intent of the program. Expanding allowable absence encourages individuals to declare Alaska residency while simply passing through Alaska simply to qualify for a unique economic benefit. This effect is also at odds with the intent of the program "to reduce population turnover in the state." It is clear from the intent in the enabling legislation that the dividend program was never intended to pay people who simply passed through Alaska.

FISCAL NOTE

No. 1

Version: HR 75

(H) Publish Date: 3/5/93

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Revenue
 Title: An Act relating to qualifications for permanent fund dividends BRU: Permanent Fund Dividend
 Component: Permanent Fund Dividend
 Sponsor: MULDER, Martin
 Requestor: House Special Committee on Military & Veteran Affairs COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	1.1	1.1	1.1	1.1	1.1	1.1
TRAVEL						
CONTRACTUAL	0.5	0.5	0.5	0.5	0.5	0.5
SUPPLIES	0.1	0.1	0.1	0.1	0.1	0.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1.7	1.7	1.7	1.7	1.7	1.7
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (Permanent Fund)	1.7	1.7	1.7	1.7	1.7	1.7
TOTAL	1.7	1.7	1.7	1.7	1.7	1.7

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 *Thomas C. Williams* Phone: 465-2323
 Division: Permanent Fund Dividend Date: 2-27-93
 Approved by Commissioner: *[Signature]* Date: 2-25-93
 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

COMMITTEE COPY