

SCOMM

90:2

ALASKA STATE LEGISLATURE



- CO CHAIR -
REPRESENTATIVE ELDON MULDER

- CO CHAIR -
REPRESENTATIVE RICHARD FOSTER

HOUSE SPECIAL COMMITTEE MILITARY & VETERANS AFFAIRS

March 3, 1993 5:00 PM
Capitol Bldg., Rm. #17

House Bill 75

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

1. Latest Copy of Bill
2. Fiscal Note
3. Analysis from the Department of Revenue
4. Background Information
 - Letter from Vincent Usera, Assistant Attorney General
 - Facts on the Two Year Requirements from PFD Division

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 75

Revision Date:

Title: An Act relating to qualifications for permanent fund dividends

Dept. Affected: Revenue

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

Division:

Permanent Fund Dividend

Approved by Commissioner:

[Signature]

Agency:

Department of Revenue

Phone: 465-2323

Date: 2-24-93

Date: 2-25-93

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 75

February 24, 1993

Constitutional Issues

As originally introduced, HB 75 (version 8-LS 0372/A) is essentially unconstitutional as Assistant Attorney General Vince Usera advised the sponsor in the attached copy of his January 27, 1993 letter.

Furthermore, the Assistant Attorney General Usera has verbally advised both the Department of Revenue and the sponsor that amending the bill to make the 4-year return provision applicable to all members of the military and their families, regardless of the military member's home of record on the date of entry, would not cure the legal problems of this legislation.

In addition, the Department believes that the current physical requirement that applies to all applicants, regardless of the reason for their absence, is reasonable for the reasons outlined on the attachment entitled **Two Year Physical Presence Requirement Facts**, dated February 23, 1993.

Consequently, the department does not support this legislation.

Fiscal Impact if Constitutional Problems Did Not Exist

1. **Implementation**

In order to implement this legislation, the department would have to:

- a. modify the booklet information;
- b. modify the certification on the PFD application;
- c. add a question to the application regarding the applicants home;
- d. determine the original home of record upon entry into the military by either:
 - i. obtaining the information directly from the service, or
 - ii. obtaining the certified copies of the information directly from the applicant;and
- e. modify the PFD data processing system, including
 - i. data capture systems,
 - ii. the PFD masterfile screen; and
 - iii. the program edits.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

ANALYSIS OF HB 75

February 24, 1993

2. Assumptions

- a. The Department can obtain original home of record information via a federal government tape matches.
- b. The information provided by the federal government will also identify whether an individual has changed their home of record since entering the military.
- c. Estimated:
 - 14,000 military applicants affected
 - 21,000 military spouse and dependent applicants affected
 - 35,000 total military, spouse and dependent applicants affected
 - x 50% filing PFD applications from outside Alaska
 - 17,500
 - x 20% military members with home of record as Alaska
 - 3,500
 - x 50% military members who match government magnetic tape
 - 1,750 Total military member, spouse and dependent applicants requiring further processing

3. Cost Analysis

- a. Additional data capture of one question \$ 275
- b. Sending out requests for information 800
- c. Processing returned requests for information 610
- Totals \$ 1,685

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

PLEASE REPLY TO:

- ☐ 1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697
- ☐ KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846
- ☒ P.O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-2398
FAX: (907) 465-2417

January 27, 1993

RECEIVED

JAN 29 1993

The Honorable Eldon Mulder
Alaska House of Representatives
Room 116
State Capitol
Juneau, Alaska 99811-1182

STATE OF ALASKA
DEPT. OF REVENUE
PFD DIVISION

RE: HB 75 - relating to
Permanent Fund Dividends

Dear Representative Mulder:

I have reviewed the above-referenced bill which would alter the eligibility criteria for Permanent Fund Dividends (PFDs). I believe this bill contains legal defects that you may wish to remedy before it becomes law.

Essentially the bill would create two classes of military, those who entered service as Alaska residents and those who became Alaska residents subsequent to entering the military. Each class would be treated differently for purposes of eligibility for PFDs, which has been found to be constitutionally impermissible. This precise issue has recently been treated in several cases before both state courts and the U.S. Supreme Court. Among the most recent are *Attorney General of New York v. Soto-Lopez*, 476 U.S. 898, 106 S. Ct. 2317, 90 L. Ed. 2d 899 (1986); *Del Monte v. Wilson*, 824 P.2d 632, 4 Cal. Rptr. 2d 826 (Cal. 1992), cert. denied, 61 U.S.L.W. 3369 (U.S. Nov. 12, 1992).

I am making this observation now so that you will not be surprised later when we are asked to testify on this bill or review the bill for the purposes of the governor's exercise of his veto power.

The Honorable Eldon Mulder

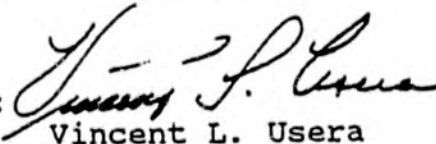
January 27, 1993

Page 2

If you wish to discuss this, please do not hesitate to contact me; my direct number is 4132.

CHARLES E. COLE
ATTORNEY GENERAL

By:


Vincent L. Usera
Assistant Attorney General

VLU:prm

cc: Representative T. Martin
D. Behr

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
TWO YEAR PHYSICAL PRESENCE REQUIREMENT FACTS
As of February 23, 1993

Q1. Is any individual or group of individuals exempted from the physical presence requirements of AS 43.23.005(a)(4)?

A1. No, this requirement applies to every applicant regardless of why they are absent from Alaska. However, under the provisions of AS 43.23.005(f) the Commissioner of Revenue may waive the requirement for members of the armed forces and their families **during a national military emergency.**

Q2. What is the maximum continuous time an individual can be allowably absent from Alaska and still retain continuous eligibility for a dividend?

A2. Nearly **three years.**

For example, an otherwise eligible resident who left Alaska on January 1, 1991 on an allowable absence would have qualified or would qualify for the 1991, 1992, and 1993 dividends.

In order to qualify for the 1994 dividend, the otherwise qualified resident would have to arrive back in Alaska no later than December 31, 1993, one day short of 3 years later.

If the resident stayed overnight and left the next day, January 1, 1994, an otherwise qualified resident would remain eligible for the 1994, 1995, and 1996 dividends.

Q3. Isn't returning home to Alaska every two years expensive for residents?

A3. In some cases, it can be. However, some advance planning can reduce the cost of coming home to Alaska. Furthermore, each eligible man, woman, and child annually receives a dividend while allowably absent. These funds can be used to pay for or at least substantially offset the cost of a trip home to Alaska. In the example in A2 above, each otherwise qualified individual who left Alaska on January 1, 1991 could collect **six dividends** or more than \$5,400/person with only one trip home to Alaska in nearly six years.

Q4. If an otherwise qualified resident is not able to meet the physical presence requirement of AS 43.23.005(a)(4), how does the resident re-establish program eligibility?

A4. The resident can re-establish eligibility for the dividend program by returning to Alaska prior to the end of the current qualifying year.