

HB

400

Alaska State Legislature

WHILE IN SESSION:
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DISTRICT 10



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ECONOMIC TASK FORCE

Representative Joe Green SPONSOR STATEMENT HB 400

This bill addresses a serious problem with the number of appeals filed after a person is denied a Permanent Fund Dividend, and the length of time that it takes to process those appeals. As of January 1, 1994 there were 9,579 appeals pending, the highest number since the PFD program's inception. One District 10 resident is still waiting to be heard 18 months after filing, and there are people who have waited longer for their appeals to be processed and resolved. Processing such a large number of appeals is very costly, and the time delays are unfair to those people who have a legitimate claim. Currently there are 10 permanent, full time employees in The Permanent Fund Division and three appeals officers in the commissioners office working on processing the appeals, yet there are still almost 10,000 appeals pending, with no end in sight. Part of the problem is that it only costs a 29 cent stamp to file an appeal. Many people who are clearly unqualified protest their denial simply because they have the opportunity to do so at no cost or risk to themselves. This year's denial rate is 64% and in previous years the percentage rate of denials has been significantly higher.

HB 400 would implement a \$25 filing fee for individuals protesting the denial of their PFD application (the department will adopt a regulation to allow an indigent individual to be exempt from the fee. The filing fee would be refundable if their appeal is successful, and non-refundable if the denial is not overturned. It is anticipated that implementation of a filing fee would discourage clearly unqualified individuals from appealing, thereby reducing costs which are deducted from the amount of the dividend, and making the appeal process shorter for legitimate claims.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

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MEMORANDUM

February 2, 1994

SUBJECT: Administrative proceedings involving permanent fund dividends
(HB 400)

TO: Representative Joe Green

FROM: Tamara Brandt Cook
Director

Here is the sectional summary you requested.

Sec. 1. Adds a requirement that an individual pay a \$25 review fee to the Department of Revenue if the individual requests the department to review its decision regarding the individual's eligibility for a permanent fund dividend or authority to claim a dividend on behalf of another. If the individual prevails, either at the administrative level or on appeal, the review fee must be returned to the individual.

TBC:gc
94-078.glc

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 400

Revision Date:	03-10-94	Dept. Affected:	Revenue
Title:	PFD Administrative Proceedings	BRU:	Permanent Fund Dividend
Sponsor:	Rep. GREEN	Component:	Permanent Fund Dividend
Requestor:	House Finance Committee	COMPONENT SERIAL NO.	0 8 1

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	-0-	(7.9)	(52.7)	(187.1)	(187.1)	(187.1)
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	7.5	(86.6)	(86.6)	(86.6)	(86.6)	(86.6)
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	7.5	(94.5)	(139.3)	(273.7)	(273.7)	(273.7)
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE: 1050	121.8	121.8	129.0	129.0	129.0	129.0

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (Dividend Fund 1050)	7.5	(94.5)	(139.3)	(273.7)	(273.7)	(273.7)
TOTAL	7.5	(94.5)	(139.3)	(273.7)	(273.7)	(273.7)

POSITIONS:

FULL-TIME			(1)	(4)	(4)	(4)
PART-TIME						
TEMPORARY						

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

ANALYSIS:

See Pages 2 through 4, as well as the attachments.

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

Phone: 465-2323
 Date: 03-10-94
 Date: 3/10/94

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ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF HB 400
As of March 10, 1994

Assumptions

- A. This Legislation would be effective in FY95.
- B. 55% of all appeals received involve bright line issues and 45% of all appeals received involve non-bright line issues. Bright line issues are those that are clearly definable by objective criteria, such as whether an individual was physically present in state during the two previous calendar years or met an application deadline. Non-bright line issues are those that involve issues that are more subjective, such as whether an individual demonstrated an intent to return to Alaska.
- C. The addition of a fee will mean some of those individuals whose denial involved a bright line issue as well as some of those individuals whose denial involved a non-bright line issue will not appeal.
- D. The Department would adopt regulations to:
1. allow an indigent individual to be exempt from the fee and outline the specific requirements for qualifying for such an exemption;
 2. require payment of the fee by checks or money orders only (no cash payments);
 3. consider any appeal to be invalid if
 - a. the appeal was not accompanied by the fee;
 - b. an insufficient amount was submitted;
 - c. accompanied by a cash payment; or
 - d. which the check was returned for non-sufficient funds; and
 4. make it clear that the Department would not issue receipts over the counter;
- E. The PFD Division would continue to receive the vast majority of appeals and the associated fees in the mail. The Anchorage and Juneau Dividend Information Offices would receive and accept a relatively small number of appeals and the associated fees across the counter. The Information Offices would forward all appeals and fees to the Dividend Appeals unit for processing;
- F. The PFD Masterfile Computer System would be modified:
1. adding a field to indicate whether the applicant was exempt from the fee as the result of indigence or if not exempt whether the fee actually accompanied the appeal;

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

ANALYSIS OF HB 400

As of March 10, 1994

2. to send a redesigned computer generated appeal receipt letter not only advising the applicant that their appeal has been received, but whether a required fee in the appropriate amount was included. If the fee was not included or the amount was less than the required fee, the receipt letter would advise an applicant that the appeal would not be valid unless the Department received the additional amount within 30 days of the date of the notice. It would also advise the applicant that if they did not send in the additional amount or request in writing a return of the insufficient amount within 30 days of the date of the notice that the fee would be forfeited. If an appellant's check was returned for non-sufficient funds, the Department would send the appellant a notice advising an applicant that the appeal would be invalidated unless the Department received the additional amount within 30 days of the date of the notice.
 3. automatically refund fees when an appeal decision overturned the original denial; and
 4. produce a daily reconciliation report for fee receipts.
- G. Necessary data processing programming updates to the PFD System Masterfile would require approximately 3 weeks work at a contractual services cost estimated to not exceed \$7,500 in FY95.
- H. Additional data entry and fee processing could be accomplished by current staff, since with the adoption of the appeal fee requirement the total number of appeals received is expected to decline.
- I. See the attachments for the assumptions regarding the number of appeals to be received and the required staffing levels. If these assumptions are correct then:
1. In FY96 one PFDS II could be reallocated to a PFDS I resulting in a savings of \$7.9. In FY97 a PFDS I position could be eliminated for an additional savings of \$44.8. Starting in FY98 three more PFDS I positions could be eliminated for an additional savings of \$134.4.
 2. Starting in FY96 funding for one Formal Hearing Officer in the Commissioner's Office could be eliminated.
- J. To the extent that the number of appeals does not decline as projected, staffing levels could not be reduced as reflected. Similarly, to the extent that the number of appeals declines more than projected, staffing levels might be able to be reduced more than the amount reflected.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION

ANALYSIS OF HB 400

As of March 10, 1994

Attachments: *Projected Revenues Resulting From HB 400*
Projected Inventory Resulting Form HB 400
FY91 - FY94 Appeals Statistics
Appeal Status Summary Report
Age of Unresolved Appeals

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
PROJECTED REVENUES RESULTING FROM HB 400

As of March 10, 1994

	<u>FY 94</u>		<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>
	<u>7 Mos</u>	<u>Annualized</u>						
<u>Informal Conference Appeals</u>								
Beginning Appeal Inventory	7,974	7,974						
Appeals Received without a fee	6,339	9,339	8,500	8,000	8,000	8,000	8,000	8,000
Decisions Issued	4,545	7,791						
Ending Appeal Inventory	9,768	9,522						
Bright Line Issue Appeals Received without a fee (55%)	3,486	5,136	4,675	4,400	4,400	4,400	4,400	4,400
Non-Bright Line Issue Appeals Received (45%)	2,853	4,203	3,825	3,600	3,600	3,600	3,600	3,600
Bright Line Issue Appeals with Fee (50% of those without a fee)			2,338	2,200	2,200	2,200	2,200	2,200
Non-Bright Line Issue Appeals with Fee (85% of those without a fee)			3,251	3,060	3,060	3,060	3,060	3,060
Total Appeals with Fee			5,589	5,260	5,260	5,260	5,260	5,260
Amount Collected			\$139,725	\$131,500	\$131,500	\$131,500	\$131,500	\$131,500
Projected Overturn Rate	35%	30%	20%	15%	10%	10%	10%	10%
Amount Refunded			\$27,950	\$19,725	\$13,150	\$13,150	\$13,150	\$13,150
Amount Retained at Informal before Formal Overturns			<u>\$111,775</u>	<u>\$111,775</u>	<u>\$118,350</u>	<u>\$118,350</u>	<u>\$118,350</u>	<u>\$118,350</u>
<u>Formal Hearing Appeals</u>								
Projected Appeal Rate with fee		16%	10%	10%	10%	10%	10%	10%
Beginning Appeal Inventory	978	978						
Appeals Received	749	1,284	447	447	473	473	473	473
Decisions Issued	698	1,197						
Ending Appeal Inventory	1,029	1,065						
Amount Collected			\$11,175	\$11,175	\$11,825	\$11,825	\$11,825	\$11,825
Projected Overturn Rate	11%	8%	5%	5%	5%	5%	5%	5%
Amount of Formal Hearing Fee Refunded			\$550	\$550	\$600	\$600	\$600	\$600
Amount of Related Informal Conference Fee Refunded			\$550	\$550	\$600	\$600	\$600	\$600
Amount Retained at Formal			<u>\$10,625</u>	<u>\$10,625</u>	<u>\$11,225</u>	<u>\$11,225</u>	<u>\$11,225</u>	<u>\$11,225</u>
<u>Net Retained</u>			<u>\$121,850</u>	<u>\$121,850</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>	<u>\$128,975</u>

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
PROJECTED INVENTORY RESULTING FROM HB 400

As of March 10, 1994

	<u>FY94(A)</u>	<u>FY95</u>	<u>FY96</u>	<u>FY97</u>	<u>FY98</u>	<u>FY99</u>	<u>FY00</u>
<u>Informal Conference Appeals</u>							
Beginning Appeal Inventory	9,768	9,522	7,111	3,371	631	891	1,151
Total New Appeals	3,000	5,589	5,260	5,260	5,260	5,260	5,260
Total Resolutions	<u>(3,246)</u>	<u>(8,000)</u>	<u>(9,000)</u>	<u>(8,000)</u>	<u>(5,000)</u>	<u>(5,000)</u>	<u>(5,000)</u>
Ending Inventory	<u>9,522</u>	<u>7,111</u>	<u>3,371</u>	<u>631</u>	<u>891</u>	<u>1,151</u>	<u>1,411</u>
<u>Formal Hearing Appeals</u>							
Beginning Appeal Inventory	978	1,014	261	108	0	0	0
Total New Appeals	535	447	447	473	473	473	473
Total Resolutions	<u>(499)</u>	<u>(1,200)</u>	<u>(600)</u>	<u>(581)</u>	<u>(473)</u>	<u>(473)</u>	<u>(473)</u>
Ending Inventory	<u>1,014</u>	<u>261</u>	<u>108</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>Staffing Levels</u>							
Permanent Fund Dividend Division							
Informal Conference Staff	6	6	7	6	3	3	3
Formal Hearing Staff	2	2	1	1	1	1	1
Total Permanent Fund Dividend Division Staff	<u>8</u>	<u>8</u>	<u>8</u>	<u>7</u>	<u>4</u>	<u>4</u>	<u>4</u>
Commissioner's Office Formal Hearing Staff funded by PFD Division	2	2	1	1	1	1	1

(A) Beginning Inventory for FY94 is as of February 1, 1994

ALASKA DEPARTMENT OF REVENUE
 PERMANENT FUND DIVIDEND DIVISION
FY91 - FY94 APPEAL STATISTICS
 Through February 1, 1994

	<u>FY 94</u>	<u>FY 93</u>	<u>FY 92</u>	<u>FY 91</u>
<u>Informal Conference Appeals</u>				
Decisions Issued	4,545	9,337	4,912	4,625
Denials Overturned	1,598	2,309	1,859	1,378
Overturn Rate	35%	25%	38%	30%
Ending Appeal Inventory	9,768	7,974	7,679	5,167
Age of Oldest Appeal in Inventory in Months	29	20	19	15
<u>Formal Hearing Appeals</u>				
Decisions Issued	698	1,031	712	433
Denials Overturned	74	51	128	61
Overturn Rate	11%	5%	18%	14%
Ending Appeal Inventory	1,029	978	334	610
Age of Oldest Appeal in Inventory in Months	15	7	12	8

Notes

The relatively high informal conference overturn rate for the first seven months of FY94 is the result of:

1. applicants incorrectly answering questions on the revised 1993 Adult Supplemental Schedule, such as those pertaining to motor vehicle exemptions and out-of-state employment;
2. a question on the revised 1993 Adult Supplemental Schedule regarding fish and game licenses which needed to be more specific (this has been corrected on the 1994 Adult Supplemental Schedule);
3. a refinement of the working out-of-state policy which allowed a number of previously issued denials to be overturned; and
4. the PFD Division's efforts to resolve obvious errors as quickly as possible, artificially inflating the overturn rate during the first half of the fiscal year.

The 15 month old formal hearing appeal in FY94 relates to an appeal placed on hold pending the decision of the Superior Court in a related case.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND PROGRAM
APPEAL STATUS SUMMARY
(A-1) REVENUE

APPLICATION YEAR

APPEAL STATUS	TOTAL	1993	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982
INFORMAL	9,768	5,590	3,185	569	250	105	43	22	3	1	0	0	0
PENDING AT INFORMAL	0	0	0	0	0	0	0	0	0	0	0	0	0
FORMAL	312	29	56	109	51	36	15	10	3	1	1	0	1
FORMAL HEARING HELD	495	7	102	191	104	43	17	9	2	2	2	2	3
MOTION TO DISMISS	219	16	50	54	36	28	8	6	5	4	4	4	4
RECONSIDERATION	0	0	0	0	0	0	0	0	0	0	0	0	0
SUPERIOR COURT	94	0	5	12	19	22	10	7	7	6	3	1	2
SUPREME COURT	1	0	0	0	0	0	0	1	0	0	0	0	0
TOTAL UNRESOLVED	10,889	5,642	3,398	935	460	234	93	59	27	14	10	7	10
INFORMAL	11,893	734	1,120	1,059	405	213	140	349	530	318	2,863	1,991	2,171
DEPARTMENT FORMAL WITHDRAWAL	549	3	89	127	54	33	18	26	56	17	56	35	35
FORMAL	298	0	16	35	46	41	15	23	10	4	43	21	44
SUPERIOR COURT	8	0	0	0	3	4	0	0	0	0	0	0	1
SUPREME COURT	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL RESOLVED WITH DENIAL OVERTURNED	12,748	737	1,225	1,221	508	291	173	398	596	339	2,962	2,047	2,251
LATE APPEAL	624	0	0	0	0	0	0	0	0	105	239	132	148
INFORMAL	20,480	560	1,495	2,906	3,334	2,055	2,065	1,048	2,553	1,296	1,740	594	754
FORMAL	4,326	5	313	431	636	586	669	414	440	251	225	165	191
SUPERIOR COURT	143	0	0	1	6	14	34	26	20	12	11	10	7
SUPREME COURT	5	0	0	0	0	0	0	0	0	2	0	0	3
TOTAL RESOLVED WITH DENIAL UPHELD	25,576	565	1,808	3,418	3,976	2,655	2,770	1,488	3,013	1,666	2,215	901	1,103
TOTAL APPEAL	49,215	6,944	6,431	5,574	4,944	3,180	3,036	1,945	3,636	2,019	5,187	2,955	3,364
VALID APPEAL CODES	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL RECORDS WITH APPEAL STATUS	49,215	6,944	6,431	5,574	4,944	3,180	3,036	1,945	3,636	2,019	5,187	2,955	3,364

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND PROGRAM
AGE OF UNRESOLVED APPEALS
(A-R4) BREEN200

AGE OF UNRESOLVED INFORMAL CONFERENCE APPEALS

INFORMAL CONFERENCE APPEALS

AGE OF APPEAL	TOTAL	1993	1992	1991	1990	1982-89
OVER 12 MONTHS	2,636	0	2,220	305	52	59
9 TO 12 MONTHS	1,109	0	737	165	136	71
6 TO 9 MONTHS	1,154	879	128	70	37	30
3 TO 6 MONTHS	1,903	1,846	20	7	3	7
LESS THAN 3 MONTHS	2,975	2,844	80	22	22	7
TOTAL UNRESOLVED INFORMAL CONFERENCE APPEALS	9,767	5,569	3,185	569	250	174

AGE OF UNRESOLVED FORMAL HEARING AND COURT APPEALS

FORMAL HEARING AND COURT APPEALS

AGE OF APPEAL	TOTAL	1993	1992	1991	1990	1982-89
OVER 12 MONTHS	19	0	5	4	4	6
9 TO 12 MONTHS	12	0	1	1	1	9
6 TO 9 MONTHS	56	0	11	11	13	21
3 TO 6 MONTHS	328	6	83	122	58	59
LESS THAN 3 MONTHS	611	46	108	216	115	126
TOTAL UNRESOLVED FORMAL HEARING AND COURT APPEALS	1,026	52	208	354	191	221

RECORDS WITH INVALID APPEAL DATES 1