

SB

253

Alaska State Legislature

SENATOR

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Senate

SPONSOR STATEMENT

SB 253 - Extension of Reapplication Period for 1993 Permanent Fund Dividend

Senate Bill 253 is designed to address a problem regarding 1993 Permanent Fund Dividend applications that were lost by the U.S. Postal Service. Since October, 1993 my office has been contacted by numerous constituents regarding loss of their PFD applications. The PFD Division had no record of receiving their applications, however, the individuals noted mailing their applications early in January at the North Pole Post office or from their home mail boxes in the North Pole area. Contact with the Postal Service revealed that they had received calls in January 1993 from customers whose various monthly bill payments had not reached creditors. These complaints led to a U.S. Postal Inspection Service investigation which determined that an apparent loss of mail took place on January 8, 9, or 11, 1993, affecting residents in the North Pole area. A letter documenting the loss was supplied to customers for the notification of creditors.

SB 253 would open a narrow window for PFD applicants by extending the reapplication period for the 1993 dividend year from September 1, 1993 to September 1, 1994. Applicants would be required to provide:

- 1) a sworn statement that the application was originally mailed in the postal area during the time mail from that area was lost,
- 2) a sworn statement from another individual who witnessed the mailing or signed the residency verification of the original application before the 1993 deadline, and
- 3) documentation from the U.S. Postal Service acknowledging the loss of mail entered into the mail stream during the '93 PFD application period.

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The PFD Division currently allows an applicant who timely files an application that was subsequently not received by the Division to reapply before September 1 of the dividend year [15 AAC 23.103(h)]. The Division has traditionally allowed reapplications, however, 1993 was the first year the deadline was established. Although PFD applicants receive batch cards verifying receipt of application, a number of individuals did not expect to receive the card last year due to the new direct deposit method of payment and therefore did not realize there was a problem until it was too late to reapply.

An extension to this deadline is needed for the 1993 reapplication period due to the loss of mail at the North Pole Post Office. My office has worked with the PFD Division to draft the language of SB 253 to solve this problem without throwing the 1993 reapplication period wide open.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 253

Revision Date:	Dept. Affected: Revenue
Title: <u>Reapplication Period For 1993 PF Dividend</u>	BRU: <u>Permanent Fund Dividend</u>
Sponsor: <u>MILLER</u>	Component: <u>Permanent Fund Dividend</u>
Requestor: <u>Senate State Affairs</u>	COMPONENT SERIAL NO. <u>981</u>

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	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
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						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS:

The Department has historically opposed any broad based reopening of an application period. However, since this legislation deals with the re-submission of applications that were allegedly originally filed timely but not received by the Department due to strictly defined circumstances, the Department's position on this legislation is *neutral*. This legislation is expected to affect 40 - 50 1993 applicants, many of whom have already submitted a late request-to-reapply. Consequently, the Department does not expect to receive a large number of additional reapplications and should be able to process all anticipated reapplications within its current budget. This legislation may result in an unanticipated large number of applicants. If so, a supplemental may be requested.

Prepared by:	Thomas C. Williams	Phone: 465-2323
Division:	Permanent Fund Dividend	Date: 01/20/94
Approved by Commissioner:		Date: <u>1/20/94</u>
Agency:	Department of Revenue	

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United States
Postal Service

February 5, 1993

SUBJECT: LOST MAIL

To Whom It May Concern:

The U.S. Postal Inspection Service and the Fairbanks Post Office are investigating the apparent loss of a considerable amount of mail that was entered into the mailstream on January 8, 9 and 11, 1993. This loss was brought to our attention when the Post Office began receiving calls from customers whose payments had not reached the creditors.

We do not know the extent of the loss or the number of customers affected at this time. We ask that those creditors whose customers mailed their payments during this time,

JANUARY 8TH, 9TH OR 11, 1993,

take this into consideration when reviewing their accounts.

If you have questions about this matter, you may contact our office in North Pole. The phone number is (907) 488-2896.

Sincerely,

J. C. Thomas
Postmaster
U. S. Postal Service
5400 Mail Trail
Fairbanks, AK 99709-9998

JCT:gg

AS 43.23.005. Eligibility.

- (a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if
- (1) the individual applies to the department;
 - (2) on the date of application the individual is a state resident;
 - (3) the individual was a state resident for at least the calendar year immediately preceding January 1 of the current dividend year;
 - (4) the individual has been physically present in the state at some time during the prior two calendar years before the current dividend year; and
 - (5) the individual is
 - (A) a citizen of the United States;
 - (B) an alien lawfully admitted for permanent residence in the United States;
 - (C) an alien with refugee status under federal law; or
 - (D) an alien that has been granted asylum under federal law.
- (b) *[Repealed, § 18 ch 4 SLA 1992]*
- (c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent individual who is eligible to receive a payment under this section. Notwithstanding (a)(2) - (4) of this section, a minor is eligible for a dividend if, during the two calendar years immediately preceding the current dividend year, the minor was born to or adopted by an individual who is eligible for a dividend for the current dividend year.
- (d) Notwithstanding the provisions of (a) - (c) of this section, an individual who has been convicted of a felony is not eligible for a permanent fund dividend for a year when, during all or part of the previous calendar year, as a result of the conviction, the individual is incarcerated.

(e) *[Repealed, § 62 ch 21 SLA 1991]*

- (f) In a time of national military emergency, the commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state under military orders while serving in the armed forces of the United States, or for the spouse and dependents of that individual. (*§ 1 ch 102 SLA 1982; am § 1 ch 57 SLA 1987; am § 1 ch 54 SLA 1988; am § 1 ch 159 SLA 1988; am § 2,3 ch 107 SLA 1989; am § 1 ch 68 SLA 1990; am § 1 ch 68 SLA 1991; am § 4,5,6,7,8, ch 4 SLA 1992*)

AS 43.23.011. Application period.

An application for a permanent fund dividend shall be filed during the period that begins January 2 and ends March 31 of that dividend year. (*§ 9 ch 4 SLA 1992, § 19b ch 4 SLA 1992 provides for a June 30, 1993 deadline for the 1993 dividend*)

AS 43.23.015. Application and proof of eligibility.

- (a) The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) for determining the eligibility of individuals for permanent fund dividends. The commissioner may require an individual to provide proof of eligibility, and the commissioner may use other information available from other state departments or agencies to determine the eligibility of an individual. The commissioner shall consider all relevant circumstances in determining the eligibility of an individual. However, the residency of an individual's spouse may not be the principal factor relied upon by the commissioner in determining the residency of the individual.
- (b) The department of _____ and _____ shall furnish an application form for claiming a permanent fund dividend. The application must include notice of the penalties provided for under _____ and contain a statement of eligibility and a certification of residency.
- (c) Except as provided in (d) of this section or as may be provided by regulations adopted by the department, an individual must personally sign the application for permanent fund dividends, including the certification of residency required under (b) of this section.

- (e) Notwithstanding (b) of this section, income earned on money awarded in or received as a result of *State v. Amerada Hess, et al.*, 1JU-77-047 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution to the dividend fund, and shall be annually deposited into the principal of the Alaska permanent fund. (*§ 1 ch 102 SLA 1982; am § 24 ch 99 SLA 1985; am § 3 ch 57 SLA 1987; am § 1 ch 38 SLA 1989; am § 2,3 ch 18 SLA 1991*)

AS 43.23.055. Duties of the department.

The department shall

- (1) annually pay permanent fund dividends from the dividend fund;
- (2) subject to AS 43.23.011 and paragraph (8) of this section, adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend; the department shall determine the number of eligible applicants by October 1 of the year for which the dividend is declared and pay the dividends by December 31 of that year;
- (3) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual;
- (4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends;
- (5) annually determine, in cooperation with the Department of Corrections, the number and identity of individuals ineligible for a permanent fund dividend under AS 43.23.005(d);
- (6) adopt regulations that are necessary to implement AS 43.23.005(d);

- (7) adopt regulations that establish procedures for the parent, guardian, or other authorized representative of a disabled individual to apply for prior year permanent fund dividends not received by the disabled individual because no application was submitted on behalf of the individual; and
- (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*)

AS 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 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; or

Residents may get second chance to get dividend check

By KATE RIPLEY
Staff Writer

JUNEAU—About 40 people whose 1993 Permanent Fund dividend applications were lost by the U.S. Postal Service last January would get a second chance for the free state money under a bill proposed by North Pole lawmakers.

Rep. Gene Therriault and Sen. Mike Miller, both R-North Pole, have introduced the legislation in response to the postal mishap last year. Therriault said about 40 peo-

ple who mailed their 1993 dividend applications at the North Pole Post Office last January never received their checks from the state because the post office lost the applications.

Unfortunately, the Permanent Fund dividend division does not accept lost mail as an excuse.

"When you and I put something in the mailbox, you usually think that's the end of it," Therriault said. "Most people didn't think about it again until they realized they didn't get their Permanent Fund

check." The Permanent Fund program sends applicants confirmation cards after the applications are received. The cards note when applicants can expect their checks.

North Pole resident Rick Emerson was among those whose application was lost. The 19-year-resident said his family has always received their dividends, and wasn't particularly alarmed when they did not receive confirmation cards.

"I filed mine direct deposit, so I thought maybe they didn't send a batch card then," he said.

But after a while, Emerson noticed friends who filed their application after he did were receiving their checks, and his family was not. So he called the Permanent Fund office.

"They told me that I never filed," Emerson said. "I couldn't believe what I was hearing." Later, the postal service investigated and

realized the "apparent loss" of a "considerable amount" of mail that entered the mail stream Jan. 8, 9 and 11 of last year, according to a letter from J.C. Thomas, Fairbanks postmaster.

The bills introduced by the North Pole lawmakers would allow people like Emerson to apply for the 1993 dividend again through September. Such applicants must provide an official statement from the postal service documenting the mail loss, along with a notarized affidavit swearing the application

was made during the time mail from the North Pole post office was lost, according to the bills.

Tom Williams, director of the Permanent Fund division, said he has no objection to extending the application deadline in this case.

"This bill is very narrowly defined," Williams said Friday. "I wouldn't support a broad-based reapplication period." The deadline to file this year's Permanent Fund dividend applications is March 31.