

HB

67

*ordered
Final*

0-LS0331VE
Cook
3/28/97

CS FOR HOUSE BILL NO. 67(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE RYAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating, for purposes of eligibility for a permanent fund dividend, to
2 absences from the state while on certain sabbaticals; and providing for an
3 effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * Section 1. AS 43.23.005 is amended by adding a new subsection to read:

6 (h) An individual who was qualified on January 1, 1997, to receive longevity
7 bonus payments and is no longer qualified to receive longevity bonus payments may
8 take a sabbatical for a period of up to 12 consecutive months by notifying the
9 department of the period the individual elects to be on sabbatical status. The notice
10 shall be provided to the department at least 30 days before the first day of the
11 sabbatical period. While on sabbatical status, the individua' may be absent from the
12 state at any time without being disqualified from receiving a permanent fund dividend
13 solely on the basis of the absence. An individual who has taken a sabbatical under
14 this subsection or under AS 47.45.035 may not elect to take a subsequent sabbatical

1 under this subsection until a period of at least five years has elapsed beginning on the
2 day the sabbatical ended.

3 * Sec. 2. AS 43.23.095(8) is amended to read:

4 (8) "state resident" means an individual who is physically present in the
5 state with the intent to remain permanently in the state under the requirements of
6 AS 01.10.055 or, if the individual is not physically present in the state, intends to
7 return to the state and remain permanently in the state under the requirements of
8 AS 01.10.055, and is absent only for any of the following reasons:

9 (A) vocational, professional, or other specific education for
10 which a comparable program was not reasonably available in the state;

11 (B) secondary or postsecondary education;

12 (C) military service;

13 (D) medical treatment;

14 (E) service in Congress;

15 (F) other reasons which the commissioner may establish by
16 regulation;

17 (G) service in the Peace Corps;

18 (H) to care for the individual's terminally ill parent, spouse,
19 sibling, child, or stepchild;

20 (I) for up to 220 days to settle the estate of the individual's
21 deceased parent, spouse, sibling, child, or stepchild; [OR]

22 (J) to care for a parent, spouse, sibling, child, or stepchild with
23 a critical life-threatening illness whose treatment plan, as recommended by the
24 attending physician, requires travel outside the state for treatment at a medical
25 specialty complex;

26 (K) unpaid sabbatical under AS 47.45.035; or

27 (L) sabbatical under AS 43.23.005(h);

28 * Sec. 3. This Act takes effect January 1, 1998.

HOUSE COMMITTEE REPORT

(7)
Date Referred to Committee: January 15, 1997

FURTHER REFERRALS: Labor and Commerce
Finance

Date of Committee Action: 3/27/97

The STATE AFFAIRS Committee considered:

HB 67

HOUSE BILL NO. 67

LONGEVITY BONUS SABB'TCL:PFD ELIGIBILITY

"An Act relating, for purposes of eligibility for a permanent fund dividend, to an absence from the state while on an unpaid sabbatical under the longevity bonus program; and providing for an effective date."

recommends it be replaced with the following committee substitute _____ the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____
 zero fiscal note(s) REVENUE- zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jeannette James</i>	✓			
<i>Ken O'Connell</i>			✓	
<i>Edith Kent</i>	✓			
<i>Marilyn H. ...</i>	✓			
<i>Fred ...</i>	✓			
<i>John ...</i>			✓	
<i>Leon M. ...</i>	✓			

CHAIR'S SIGNATURE *Jeannette James*

Sponsor Statement:
HB 67 Sabbatical to Permanent Fund Eligibility

Many of Alaska's elderly residents often find themselves wanting to or needing to escape to warmer climates during the harshest of winter months. The same residents find themselves needing to leave to care for family members or attend to business concerns. Unfortunately, an elderly resident who leaves the state for more than 3 months loses eligibility for the Permanent Fund Dividend. While this seems practical at first blush, our senior citizens, rely the heavily on their dividends for their very financial survival, and are often on legitimate sabbaticals created by the Legislature for Longevity Bonus purposes.

HB 67 would conform eligibility requirements for the Permanent Fund Dividend with those of the unpaid sabbatical provisions in A.S. 47.45.035 governing the Longevity Bonus Program.

The recipient of the Longevity Bonus may take an unpaid sabbatical for a period of up to 12 months. A recipient having properly notified the Department of Administration 30 days before leaving the State of Alaska may make application upon return to the state to again receive the bonus. Moreover, an unpaid sabbatical recipient may only take one such sabbatical every five years.

Put simply , HB 67 would allow a senior citizen to take a sabbatical from the State of Alaska no more than once every 5 years without losing eligibility for the Permanent Fund Dividend. This bill does not constitute a loosening of the eligibility process for receipt of the Permanent Fund. It is tailored specifically to allow those who are on a justifiable sabbatical as recognized by §47.45.035 to remain eligible for the Permanent Fund Dividend.

From a policy perspective, HB 67 would be a great achievement as it encourages senior citizens to maintain residence in the State of Alaska by not punishing them financially for leaving on a justifiable sabbatical as recognized by the Longevity Bonus Program. Further, HB 67 encourages Alaska's seniors citizens to travel and conduct business for themselves and others which in these tight budgetary times will force savings out of payments made under the Longevity Bonus program.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 25, 1997

SUBJECT: Absences and eligibility for PFDs (HB 67)

TO: Representative Jeannette James, Chair
House State Affairs Committee
Attn: Barbara Cotting

FROM: Tamara Brandt Cook ^{TBC}
Director of Legal Services

You have asked whether HB 67 poses constitutional problems. The bill establishes unpaid sabbaticals taken under the longevity bonus program as allowable absences in residency determinations under the permanent fund dividend program.

It is possible that this bill if enacted would be susceptible to challenge under the equal protection clause of the state constitution. Under the state equal protection clause, a statute is evaluated on a sliding scale under which the goal of the legislation and the importance of the individual rights affected are considered. (State v. Anthony, 810 P.2d 155 (Alaska 1991)) As the importance of the individual rights affected increases, the burden increases on the state to show that the state's goal justifies the intrusion on the individual's interests in equal treatment and that the state's goal is rationally related to the means chosen to achieve the goal.

An individual's interest in receiving a permanent fund dividend is accorded a low level of protection under the state equal protection clause because only an economic interest is implicated and that interest is not based on the need of the applicant. (Underwood v. State, 881 P.2d 322 (Alaska 1994)) It is possible that, in applying this test, the court would find that a sufficiently rational basis exists for treating these seniors differently from other residents who have good reasons for leaving the state, but that basis is not immediately apparent to me.

Bear in mind that a distinction will be drawn not only between seniors and non-seniors but also between seniors who are part of the longevity program and other seniors (possibly of the same ages and absent for the same purposes) who are not part of the longevity bonus program because of its recently enacted phase-out provision.

TBC:glc
97-116.glc

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TBC:glc
97-116.glc

2/26/97

Post-it Fax Note 7671	Date	# of pages
To: Jeannette James	From: Barbara Cotting	
Co./Dept: PFD	Co.:	
Phone #	Phone #	
Fax # 2096	Fax #	



Senior Voice/Jim Prevost

Anchorage Pioneers' Home, now under the control of the newly-created Division of Alaska Longevity Programs of the Department of Administration.

State officials say the restructuring will enable the programs to run more efficiently and allow the Division of Senior Services to focus on its expanding role in home and community-based care.

"It was done primarily to recognize that at [the Division of] Senior Services, the home and community-based side of the operation has grown," said Alison Elgee. Elgee is deputy commissioner of the Department of Ad-

ministration projects, and to ensure the growing elderly population to remain at home with their families.

Elgee noted that the creation of the Division of Senior Services three years ago combined the Older Alaskans Commission (now called the Alaska Commission on Aging) and the Division of Pioneer Benefits under one roof. Since then, however, "the operations at DSS have expanded tremendously beyond just what those two things were."

page 28 please

Bonus sabbatical jeopardizes dividend eligibility

New bill would change rules for Permanent Fund

by David Washburn
Senior Voice reporter

If you're planning a lengthier absence from Alaska this year as a result of the Longevity Bonus program's new "unpaid sabbatical" rule, be warned that it could cost you your Permanent Fund check.

"We don't recognize [the sabbatical] as an allowable absence," said Permanent Fund division director Nanci Jones. "If you're gone more than 180 days in the year, unless you are specifically allowed by law, you will not be eligible for the dividend."

The sabbatical rule went into effect in January and allows people in the Longevity Bonus program to be out of the state for up to a full year and not lose permanent eligibility for the program. Although they won't get a Bonus check while they

are gone, by following proper notification procedures they can resume receiving the monthly \$100 to \$250 payments when they return to the state.

However, Permanent Fund dividend rules require that they lose eligibility for a dividend check for the year they are gone, and that they re-qualify by remaining in the state and meeting the other program guidelines before getting another dividend check.

A bill introduced this session seeks to change that rule and enable people taking a Longevity Bonus sabbatical to remain eligible for the dividend. Sponsored by senators John Torgerson and Tim Kelly, Senate Bill 4 adds unpaid sabbaticals to the list of allowable excuses for being physically absent from the state for more than the 180-day maximum limit.

Torgerson said he and Kelly were approached by constituents who questioned having to lose a dividend check while taking an authorized sabbatical. The bill will help make the rules for the two differ-

ent programs more consistent, he said.

"It just makes sense to go ahead and do that."

Jones, however, said the bill is unnecessary because even though they may lose one dividend check for the year they are gone, people who return from a sabbatical can re-qualify and resume getting their dividend checks in subsequent years.

"I think there's a little confusion right there with the author of that bill with what the implications are," she said.

Jones noted that the Longevity Bonus sabbatical is an unpaid absence. Since people lose their Bonus checks for time spent out of the state, she argued, why should they not expect to do the same for the Permanent Fund dividend?

"The physical presence is the driver for the Longevity Bonus program, and that's the basis for our program," she said. If the exception in SB 4 is granted, Permanent Fund checks will go to people

see "New bill", page 28 please

7

Ombudsman under fire
Forgery charge for LTC advocate

13

Preparing for Rony
Center Section

23

Awakening Giant, part 2
Going Places

o control homes, bonus...

ision, Elgee said. Pioneers' Homes Ad-board, a panel of state and private appointees help determine policy for homes, discussed the several months and did it, she said.

y recommended it. At the two divisions be distinct."

Montano, administrator of the Fairbanks Pioneers' homes, said she is very about the new divi-

r being very great at the homes and our is different than Senior Services," she said. in-patient facilities, focusing on commu-

Pioneers' homes hold a appeal for Alaskans, being in their own divi-ty will be in a better n to play on that . Montano said.

her important differ-ll be the separation t the Pioneers' homes,

which include assisted-living units, and the Division of Senior Services, which regulates assisted-living facilities in the state through its licensing duties.

Having the assisted-living "watchdog" agency in the business of running its own assisted-living facilities created a question of conflict of interest, Montano said.

"Licensing helps us examine ourselves, look at our standards. And it's always better if that's coming from a different perspective."

No abrupt changes

Montano, who has been at the Fairbanks home for seven and a half years, said the creation of the Division of Alaska Longevity Programs is not really a new idea, but rather a return to the system the state had in place for years.

"When I first came, [the Pioneers' homes] were a separate division. About three years ago that changed, and we were incorporated under

Senior Services."

Nevertheless, with the recent return to separate divisions, many people expressed concerns, Montano said.

"I've tried to emphasize that it was always this way. It was only changed for a couple of years, and now it's going back to the way it was. It shouldn't be considered scary or a negative change. It can help us."

The reorganization should have no effect on the day-to-day operations of the Pioneers' homes, Montano said.

Elgee agreed and added that the change will not cost the state extra money.

"[Jim Kohn's] position was not replaced within the Division of Senior Services because he was running the same programs that are now under him."

Despite the new organization, staff will remain pretty much in the same offices that they have been using, Elgee said. "This did not require any new money or increased staff."

New bill...

from page 1

who are not in the state, while Longevity Bonus checks will not, she said.

Meanwhile, the people who run the Longevity Bonus program say most clients they talk with are well aware of the potential loss of a dividend check. A booklet published by the Permanent Fund division spells out clearly that Bonus sabbaticals are not allowable absences.

Longevity Bonus program supervisor Karen Phillips said that 130 people are currently on the unpaid sabbatical, although not all of them will be gone for 12 months.

"It's amazing how many seniors ask if [taking an unpaid sabbatical] is going to affect their permanent fund dividend. I think they're surprised that it will," Phillips said. However, she added that she has "not heard anyone say they would decline a sabbatical if it meant they would lose their Permanent Fund."

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Hearing Problems?

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The Video Otoscope is a

Revision Date: _____ Dept. Affected: Revenue
 Title: Longevity Bonus Sabbatical PFD Eligibility BRU: Permanent Fund Dividend
 Component: Permanent Fund Dividend
 Sponsor: Representative Ryan
 Requestor: (H) STA COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Permanent Fund	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY97) cost \$ 0.0

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

This bill would make the unpaid sabbatical under AS 47.45.035 an allowable absence for PFD eligibility purposes. There will be no fiscal impact on PFD's operating budget.

Prepared by: Nanci A. Jones, Director
 Division: Permanent Fund Dividend
 Approved by Commissioner: Wilson L. Condon
 Agency: Revenue

Phone: 465-2323
 Date: February 25, 1997
 Date: February 25, 1997

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