

HB

337

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 2, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

Some state agencies are currently allowed to seek from individuals overdue payments of money due the state through a simple administrative collection of permanent fund dividends. But most state agencies still need to use a time consuming and costly court action to attach an individual's permanent fund dividend. It makes sense for all our state agencies to have access to this "fast track" method of collecting from a person who receives a permanent fund dividend while in arrears with payments lawfully due to the state. This bill I transmit today accomplishes this change in law.

Examples of agencies now able to attach permanent fund dividends with a simple administrative action include the Department of Health and Social Services, for reimbursement of certain court-ordered treatment, and the Alaska Commission on Postsecondary Education for student loans in default.

But the Department of Labor and Workforce Development, for example, must file a small claims court action or seek criminal prosecution to recover overpaid unemployment insurance benefits and fraud penalties. Partly as a result of this cumbersome method, the department estimates the state is owed \$4.5 million in outstanding benefits received by fraudulent means, \$3.6 million in statutory penalties, and \$1.6 million for overpaid benefits. Not only will this bill increase recovery rates, but because these owed benefits are paid by employer taxes, it will reduce employer tax rates within the state.

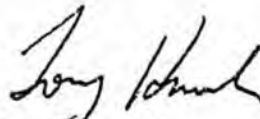
A state agency would not be required to use the new procedures for collection. Any agency that elects to use the new procedures would be required to notify the individual of the claim with a fair opportunity for a hearing at which the individual could contest the

The Honorable Brian Porter
February 2, 2000
Page 2

agency's claim to the permanent fund dividend. If a hearing is not requested or the claim is resolved in favor of the state agency, the agency may collect the money from the individual's permanent fund dividend without filing a court action.

Passage of this measure gives state agencies an additional tool to recover money that is lawfully owed to the state under existing state laws.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is written in a cursive, flowing style.

Tony Knowles
Governor

(7)

Date Referred to Committee: February 4, 2000

HOUSE COMMITTEE REPORT

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/22/00

The STATE AFFAIRS Committee considered:

HB 337

HOUSE BILL NO. 337

CLAIMS AGAINST PERM FUND DIVIDENDS

"An Act relating to claims against permanent fund dividends to pay certain amounts owed to state agencies and to fees for processing claims against and assignments of permanent fund dividends; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HR 337 (STA) 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) DOL

zero fiscal note(s) REV

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Shannette James</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>				✓
<i>Bill Budz</i>	✓			
<i>M. [Signature]</i>		✓		
<i>S. Ogan</i>		✓		

CHAIR'S SIGNATURE *Shannette James*

Relate fees to permanent fund dividends.

1-GH2060\G
Cook
2/17/00

CS FOR HOUSE BILL NO. 337(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to claims against permanent fund dividends to pay amounts
2 owed to the Department of Labor and Workforce Development under the Alaska
3 Employment Security Act and to fees for processing certain claims against
4 permanent fund dividends; and providing for an effective date."

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

6 * Section 1. AS 43.23.071 is amended to read:

7 **Sec. 43.23.071. Fees for processing claims and assignments.** The department
8 shall by regulation adopted under AS 44.62 (Administrative Procedure Act) establish
9 fees for processing claims on dividends received by the department under
10 AS 43.23.065, [OR] 43.23.067, or 43.23.072 and for processing assignments of
11 dividends received by the department under AS 43.23.069(b). The fees shall cover the
12 administrative expenses of the department associated with the claims and assignments.
13 Fees shall be deducted from the amount of the dividend remaining after payment of
14 the portion claimed or assigned, or, if the entire dividend is claimed or assigned, the

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1 fees shall be deducted before the dividend is paid to the creditor or assignee.

2 * Sec. 2. AS 43.23 is amended by adding a new section to read:

3 **Sec. 43.23.072. Claims for amounts owed under the Alaska Employment**
4 **Security Act.** (a) AS 09.38 does not apply to permanent fund dividends taken by the
5 Department of Labor and Workforce Development for a claim for payment for money
6 owed under AS 23.20 (Alaska Employment Security Act). Notwithstanding AS 09.35,
7 execution on a dividend claimed under this section is accomplished by delivering a
8 certified claim to the Department of Revenue containing the following information:

9 (1) the name and social security number of the individual whose
10 dividend is being claimed; if the Department of Labor and Workforce Development
11 does not have access to the individual's social security number for this purpose, the
12 department may supply other identification information authorized under regulations
13 to make a claim under AS 43.23.065;

14 (2) the amount the individual owes on the claim for payment;

15 (3) a statement that

16 (A) the Department of Labor and Workforce Development has
17 notified the individual that future permanent fund dividends of the individual
18 will be taken to satisfy the claim for payment;

19 (B) the individual was notified of the right to request a hearing
20 and allowed at least 30 days after the date of the notice described in (A) of this
21 paragraph to request the Department of Labor and Workforce Development to
22 hold a hearing on the claim;

23 (C) the claim for payment has not been contested, or, if
24 contested, the issue has been resolved in favor of the Department of Labor and
25 Workforce Development; and

26 (D) if the claim for payment has been contested and resolved
27 in favor of the Department of Labor and Workforce Development, an appeal
28 is not pending, the time limit for filing an appeal has expired, or the appeal has
29 been resolved in favor of the department.

30 (b) If a permanent fund dividend is claimed under (a) of this section, the
31 Department of Labor and Workforce Development shall, before submitting a claim for

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payment under this section, notify the individual. The notice shall be sent to the mailing address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim for payment;

(2) notice that the permanent fund dividend, or that portion of the permanent fund dividend that does not exceed the amount of the claim for payment, shall be paid to the Department of Labor and Workforce Development in accordance with priorities established in state law;

(3) notice that the individual has a right to request a hearing and has a specific time after the date that the notice is mailed in which to file with the Department of Labor and Workforce Development an objection to paying the claim from the individual's permanent fund dividend.

(c) Except as provided in (d) of this section, AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b) of this section. The hearing

(1) is limited to issues of identity of the individual and whether an amount is still owing in the claim for payment; and

(2) may be conducted telephonically or in writing.

(d) If the Department of Labor and Workforce Development has a notification or hearing procedure established in statute or regulation, the department may instead use that notification and hearing procedure so long as

(1) the procedure provides at least the minimum time for notice specified in (a)(3)(B) of this section for the individual to request a hearing;

(2) the notice includes the statements required by (b) of this section; and

(3) the hearing is limited to the issues specified in (c)(1) of this section.

(e) The Department of Labor and Workforce Development may adopt regulations to implement or interpret this section under AS 44.62 (Administrative Procedure Act).

(f) In a claim for payment under this section, the Department of Labor and Workforce Development may include fines, fees, penalties, overpayments, attorney fees, costs, and other amounts owed the department under other provisions of state law

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1 under which the claim for payment is being made.

2 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section
3 to read:

4 TRANSITION: REGULATIONS. Notwithstanding sec. 5 of this Act, the Department
5 of Labor and Workforce Development may proceed to adopt regulations necessary to interpret
6 or implement secs. 1 and 2 of this Act. The regulations take effect under AS 44.62
7 (Administrative Procedure Act), but not before the effective date of secs. 1 and 2 of this Act.

8 * Sec. 4. Section 3 of this Act takes effect immediately under AS 01.10.07().

9 * Sec. 5. Sections 1 and 2 of this Act take effect January 1, 2001.

FISCAL NOTE

No: 1

Bill Vers: HB 337

(H) Publish Date: 2/4/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction):
 Title: An Act relating to ... Admin collection
 of Perm. Fund Div. ... for amounts owed to State
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Labor
 BRU: Employment Security
 Component: Unemployment Insurance
 COMPONENT SERIAL NO. 2276

EXPENDITURES/REVENUES: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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						
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CHANGE IN REVENUE	377.1	569.8	385.4	385.4	385.4	385.4
FUND SOURCE #	1004	1004	1004	1004	1004	1004

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY00) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by: Rebecca Gamez, Director

Division: Employment Security Division

Phone: 465-2711

Date/Time: 1/12/00 11:36 AM

Approved by Commissioner: Ed Flanagan, Commissioner

Agency: Department of Labor and Workforce Development

Date: 1/12/2000

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Rev 10/99

ATTACHMENT

HD 007

Fiscal Note for Governor's Bill. .."Administrative Collection of Permanent Fund Dividends...for amounts owed to state."

The Alaska Department of Labor and Workforce Development, Employment Security Division, Benefit Payment Control Unit, is responsible for recovery of overpaid unemployment insurance (UI) benefits and fraud penalties. The current outstanding debt owed to the state for overpayments is a little over 9 million dollars; comprised of \$4,900,000 paid erroneously due to a fraudulent act committed by the claimant; \$1,500,000 paid due to error, most often the claimant's; and \$3,000,000 in statutory penalty applied for receipt of benefits through fraudulent acts.

In order to obtain federal administrative funding from the U.S. Department of Labor, our division must continue to improve the percentage of overpayments we recover. Currently, the only way to attach a Permanent Fund Dividend is by voluntary assignment, a judgment through small claims action, or through a criminal prosecution judgment. The latter two actions are lengthy and time consuming and are used in less than 5% of the cases. Authority to attach Permanent Fund Dividends through administrative action would simplify the process and increase the Department's recovery of improperly received payments and penalties.

Attachment of Permanent Fund Dividends would only be used after proper notice of liability has been given and appeal rights have expired or been exhausted. It would only be used on past due accounts.

No fiscal impact to the operational costs of the Unemployment Insurance program is anticipated. The costs related to the legislation will be replaced by efficiencies and related savings realized by a reduction in the number of judgments required through small claims action, or through a criminal prosecution.

Alaska statute 23.20.390 (a) requires that the over paid UI payment when recovered is to be returned to the UI trust fund. Since unemployment insurance benefits are primarily paid through taxes from Alaska's employers, the recovery of these overpaid benefits has a positive impact on employer tax rates. Alaska statute 23.20.390 (f) requires that any penalty recovered will be deposited into the state general fund.

After all other administrative remedies are exercised, the department anticipates levies on permanent fund dividend funds will result in recovery of overpaid UI payments and penalties as follows:

<u>First Calendar Year of Implementation effective January 1, 2001</u>	
Fraud overpays	\$1,148,200
Non-fraud overpays	\$362,600
Total Returned to UI Trust Fund	\$1,510,800
Penalties Recovered for GF deposit	\$754,200 (a)
<u>Second & Subsequents Calendar Years</u>	
Fraud overpays	\$638,300
Non-fraud overpays	\$128,900
Total Returned to UI Trust Fund	\$767,200
Penalties Recovered for GF deposit	\$385,400 (a)

In the first calendar year of implementation of the permanent fund levy, the UI overpay and penalty calculations represent the backlog which is greater than what would typically be expected on an ongoing annual basis. The second and subsequent year calculations is what we expect annually after the backlog is recovered.

FOOTNOTE:

(a) the state fiscal year distribution (see fiscal note form) of penalties recovered for deposit to the state general fund due to the 1/1/2001 effective date is as follows:

*FY2001 = \$377,100 (50% of 1st calendar year penalties)

*FY2002 = \$377,100 (50% of 1st calendar year penalties)

*FY2002 = \$192,700 (50% of 2nd calendar year penalties)

*FY2003 & subsequent fiscal years = \$385,400

FISCAL NOTE

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

BILL NO. HB 337

Revision Date/Time (Note if correction)	Dept. Affected	Revenue
Title	BRU	Revenue Operations
	Component	Permanent Fund Dividend
Sponsor	Rules	
Requester	House State Affairs	Component Serial No. 981

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill allows state agencies to file claims against Permanent Fund Dividends of individuals with unpaid debts owed to state agencies. Section 2 of this bill allows the Permanent Fund Dividend Division to collect an administrative fee to cover costs associated with processing these claims. This existing fee of \$2 per claim (as set out in regulation) is based on state agencies using electronic media to transmit any and all claims to the dividend division. The division may have to increase the fee to a particular agency if that agency is unable to transmit its claims electronically and instead creates additional paperwork and manual processing for the dividend division.

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

Phone 465-2323
 Date/Time February 8, 2000
 Date February 8, 2000

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