

SB

148

HFIN

FILE

SENATOR
JOHN J. COWDERY
Anchorage

Committees
Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council



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SPONSOR STATEMENT FOR SB 148

"An Act relating to allowable absences for certain members of the armed forces and their spouses and dependents for purposes of eligibility for permanent fund dividends; and providing for an effective date."

SB 148 is a correction to an oversight in our allowable PFD absences.

This was brought to my attention, when a 20-year Alaskan resident and constituent who was activated on Sept 11, was recently denied his PFD. He is in the Navy Reserves.

He was overseas protecting our country on Active Duty orders for 10 months. The 180-day requirement of being out of state is waived in his case, because he is on military orders.

However..... here is the glitch.....

Upon his return to Alaska, he took a 7-week trip to California to care for and visit his quadriplegic brother. Normally this would not be a problem. People do it ALL the time.

Those of us who are not in the military, we can be gone up to 180 days doing whatever we want and still collect a PFD. No questions asked.

However if you are away on orders issued by the President of the United States, protecting the freedoms of the United States of America, the greatest country on EARTH, you can only be out of state for up to a maximum of 45 days. That is an injustice and a sloppy way of saying Thank You to the men and women who make up our volunteer force, and protect us without hesitation.

Senate Bill **148** corrects this oversight. Please join in sponsoring this cause, and showing your patriotic THANK YOU to the members of Reserves, Guards, and Active Duty Military.

Current Statutes as of March 25, 2003

Permanent Fund Division

Sec. 43.23.008. Allowable absences.

(a) Subject to (b) and (c) of this section, an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent

- (1) receiving secondary or postsecondary education on a full-time basis;
- (2) receiving vocational, professional, or other specific education on a full-time basis for which, as determined by the Alaska Commission on Postsecondary Education, a comparable program is not reasonably available in the state;
- (3) serving on active duty as a member of the armed forces of the United States;
- (4) serving under foreign or coastal articles of employment aboard an oceangoing vessel of the United States merchant marine;
- (5) receiving continuous medical treatment recommended by a licensed physician or convalescing as recommended by the physician that treated the illness if the treatment or convalescence is not based on a need for climatic change;
- (6) providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex;
- (7) providing care for the individual's terminally ill parent, spouse, sibling, child, or stepchild;
- (8) settling the estate of the individual's deceased parent, spouse, sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;
- (9) serving as a member of the United States Congress;
- (10) serving on the staff of a member from this state of the United States Congress;
- (11) serving as an employee of the state in a field office or other location;

(12) accompanying a minor who is absent under (5) of this subsection;

(13) accompanying another eligible resident who is absent for a reason permitted under (1) - (3), (5) - (12), or (14) of this subsection as the spouse, minor dependent, or disabled dependent of the eligible resident;

(14) for any reason consistent with the individual's intent to remain a state resident, provided the absence or cumulative absences do not exceed

(A) 180 days if the individual is not claiming an absence under (1) - (13) of this subsection;

(B) 120 days in addition to any absence or cumulative absences claimed under (1) or (2) of this subsection if the individual is not claiming an absence under (3) - (13) of this subsection; or

(C) 45 days in addition to any absence or cumulative absences claimed under (1) - (13) of this subsection.

Sec. 43.23.005 (f) 72 Hour Waive

(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.



DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
DIVIDEND ENFORCEMENT REVIEW AND APPEALS
P.O. Box 110466
JUNEAU, ALASKA 99811-0466

March 14, 2003 --

Daniel L. LaPlante
10101 Nantucket Loop
Anchorage, AK 99507 4425

2003
PERMANENT FUND DIVIDEND
DENIAL LETTER
03076458 8

Dear Mr. LaPlante:

I have denied your 2003 dividend. To decide you weren't eligible, I used these facts:

- You were absent from Alaska 280 days in calendar year 2002.
- Your active duty military absence totaled 176 days.
- You were absent an additional 104 days for vacation and business.

And considered these issues:

- You were absent from Alaska more than 45 days in addition to your allowable military absence.

See enclosed AS 43.23.008(a)(14)(C).

If you disagree with my decision:

- You need to show that you were not absent more than 45 days in addition to your military absence.
- You have 60 days from the date of this letter to file a Request for Informal Appeal by filling out and returning the enclosed form.

A handwritten signature in black ink, appearing to read "Kay Dickson".

Kay Dickson
PFD Technician II

Provided by Sen. Cowdery

A brief overview of PFD rules pertaining to SB 148

Prepared by Kierke A Kussart

Civilian (no special circumstances)

Can be gone up to 180 days in a calendar year for any reason as long as home is maintained in state (own, rent, storage) and residency ties are not created in other states.

Military Active Duty

Must have AK as home of record.

Can be gone whole year - must return for 3 days every 2 years minimum. After 5 years absence must have 30 days in AK.

Does not have to maintain home in AK.

Can obtain other states drivers license, vehicle registration, resident hunting and fishing licenses.

Can purchase home in another state.

Spouse can work full time in another state.

Once out of AK for over 180 days in a calendar year only 45 days can be for non-military reasons.

Main Points

- 1. Discharge is a scheduled event and can be planned for. Upon discharge the military will ship the applicant's belongings to any address the applicant chooses.**
- 2. Once returned to civilian status the applicant may have many more ties outside then to AK. Needs to return to fulfill statement of intent.**
- 3. In my opinion six months is an excessive amount of time for a move back to AK, especially, since military members are used to moving without much notice. Now that they are free from military obligation it is time to come home.**

4/17/03

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
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March 10, 2003

The Honorable John Cowdery
Alaska State Legislature
State Capitol, Room 101
Juneau, AK 99801

Re: Daniel LaPlante's 2003 Permanent Fund Dividend

Dear Senator Cowdery:

We have reviewed Mr. LaPlante's 2003 Alaska Permanent Fund Dividend application at the request of your staff aide, Annette Skibinski. Mr. LaPlante, a U.S. Navy reservist, was absent from Alaska for the first six months of 2002 when he was called to active duty after the tragedy of September 11. He returned to Alaska in June 2002 and then left again on personal business in August, coming home at the end of November. He was absent from the state 104 days in 2002, in addition to his military service.

The Dividend Division has notified Mr. LaPlante that it will deny his 2003 dividend application. He has appeal rights but, to be totally honest, I do not believe he will prevail at an appeal hearing. I am sorry, but the law is against him.

Unfortunately, the statute that grants allowable absences for military service also limits any additional absence — beyond military service — to no more than 45 days in a calendar year. Alaska Statute 43.23.008(a)(14) allows "45 days in addition to any absence or cumulative absences claimed under (1) – (13) of this subsection." Military absences are Subsection (3). I believe the legislative intent was that military members who call Alaska their home should return to the state within a reasonable period of their discharge. I am certain that no one ever anticipated the issue of reservists being called to duty after such an event as September 11.

There is a statute, AS 23.23.005(f), that says, "... in 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. ..." Subsection (a)(4) is the requirement that an applicant must return to Alaska for at least 72 consecutive hours every two years to remain eligible for the

Senator John Cowdery

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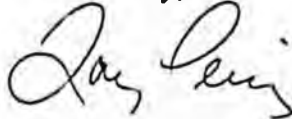
March 10, 2003

dividend. There is nothing in that statute that allows us to waive the 45-day absence rule during a military emergency.

I am sorry that there just isn't anything we can do under the law to help Mr. LaPlante qualify for the 2003 dividend. However, if you were concerned about a possible recurrence of such a case, you could amend AS 43.23.005(f) to allow the commissioner to waive the 45-day rule under AS 43.23.008(a)(14) in addition to the 72-hour rule under AS 43.23.005(a)(4).

Please let me know if we can provide any further assistance with this case, or if you are interested in pursuing any change to the statute. We look forward to working with you in any way we can to help improve the program.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry Persily".

Larry Persily
Deputy Commissioner

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 148
(S) Publish Date: 4/9/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Allowable Absence BRU: Revenue Operations
for Military Service Component: Permanent Fund Dividend
Sponsor: Senator Cowdery
Requester: Senate State Affairs Committee Component No.: 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	30.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	30.0	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)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1050 Permanent Fund Dividend Fund	30.0					
TOTAL	30.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 00
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This legislation would amend state statute governing allowable absences for the Permanent Fund dividend (AS 43.23.008) as it relates to individuals serving in the U.S. armed forces. The existing statute allows an individual serving in the armed forces to remain outside Alaska for up to 45 days a year, in addition to time serving on active duty. The purpose of this limitation has been to assess the military personnel's intent to return home to Alaska after his or her discharge from active duty, since the individual has always claimed the intent to return to Alaska throughout his or her allowable absence for military service. This legislation would amend the statute to allow up to 180 days of time outside Alaska each year, in addition to time on active duty. This provision also would apply to the spouse and children of military personnel.

Prepared by: Larry Persily, Deputy Commissioner Phone: 465-5469
Division: Department of Revenue Date/Time: 3/29/03 10:28 AM
Approved by: Larry Persily, Deputy Commissioner Date: 3/29/2003
Agency: Department of Revenue

FISCAL NOTE #1

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB 148

ANALYSIS CONTINUATION

Discussion

The number of military personnel living outside Alaska for part or all of the year, and who claim an allowable absence in their application for the Permanent Fund Dividend, increases each year:

- 5,088 for the 1999 dividend.
- 5,678 for 2000.
- 5,831 for 2001.
- 6,024 for 2002.

The Division is unable to report how many spouses and children of military personnel apply for the dividend, but it is several thousand additional applications per year.

This legislation would increase that number by amending the statutory limitation on how long a member of the military may remain outside Alaska in addition to his or her time on active duty. The existing statute limits the applicant to 45 days. This legislation would increase that to 180 days. The Division is unable to project how many individuals would qualify for the dividend under the new requirement but, for example, if this new provision had been in effect for the 2002 dividend, for every additional 100 applicants who qualified for the dividend it would have reduced the amount of the dividend for everyone else by just 25 cents.

The practical effect of this legislation would be that military personnel discharged from active duty could remain outside Alaska for up to 180 days after discharge and still qualify for the dividend, or individuals could reside outside Alaska for up to 180 days before joining active duty and still qualify.

This legislation would not change the statutory requirement limiting college and university students to no more than 120 days of being absent from Alaska, in addition to their time as full-time students.

Cost to the Division

This legislation makes the change retroactive to January 1, 2002, with the intent of changing the eligibility requirements for the 2003 dividend (2002 is the qualifying year for the 2003 dividend). To accomplish that goal, this measure would extend the dividend application period from the statutory deadline of March 31, 2003 to September 15, 2003 for those individuals who would benefit from the new provision allowing longer absences from the state.

This could create administrative problems for the Division. First, the Division needs to estimate by mid-September the number of applications that will be approved, in order to determine the amount of the 2003 dividend and to start processing direct-deposit payments. Such a late cut-off date will require the Division to hold back sufficient funds to cover unexpected applications not yet processed or reviewed for eligibility. It is unlikely that these late applications would be paid on time three weeks later in October with the rest of the applicants.

The larger problem, however, would be contacting military personnel to notify them of the new statutory provision and extended deadline. The \$30,000 requested in this fiscal note would be used to send letters to 2002 dividend applicants in the military service and to purchase advertising in those Alaska communities with a significant military presence.