

SB

104

ALASKA STATE SENATE



Session:
State Capitol
Juneau, Alaska 99801-1182
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Senator Ralph Seekins
District D

MEMORANDUM

Date: February 14, 2005

To: Office of Senator Therriault

From: Senator Ralph Seekins

Re: Request for Hearing of SB 104

AS

Attached please find Senate Bill 104 along with a concomitant sponsor statement.

Senate Bill 104 elevates the crime of permanent fund dividend (PFD) fraud to a class C felony from a class A misdemeanor. It also codifies in law the Department of Revenue's PFD fraud investigation unit.

I respectfully request this bill be scheduled in the State Affairs Committee at your earliest convenience. Thank you.

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District D

Senate Bill 104 Sponsor Statement

"An Act relating to the crime of misrepresenting permanent fund dividend eligibility; requiring the establishment of a permanent fund dividend fraud investigation unit in the Department of Revenue."

Senate Bill 104 seeks to strengthen the Department of Revenue's ability to investigate fraud associated with making a false application for a permanent fund dividend. Furthermore, submission of a fraudulent permanent fund dividend application would become a class C felony.

In 2004 the Department of Revenue (DOR) examined over 1,600 fraud tips and audited over 1,700 permanent fund dividend (PFD) applications suspected of being fraudulent. This resulted in \$1.4 million in denied or assessed dividends (1,500+ applications). Furthermore, there were three federal indictments and one conviction for crimes involving PFD fraud.

The most common PFD fraud offense involves persons who forge the signature of another on the application (or related documents) with the intent of receiving a dividend to which they are not entitled. It's important to note that the bill is not intended to capture, for example, cases where husbands or wives sign for each other. However, the provisions of this legislation would apply in cases where the individual is attempting to steal from another person or from the state.

Current law (AS 11.46.500 - 510) describes three separate degrees of forgery — the two most serious offenses are punishable as class B and C felonies, but are limited to cases involving various types of financial instruments such as currency, securities, deeds of trust, etc.

Forgery in the third degree covers instances where a person intentionally makes a false statement on a written instrument (such as a PFD application). However, this offense is punishable as a class A misdemeanor only. The DOR's proposal to elevate PFD fraud from a simple misdemeanor to a class C felony is expected to provide a more effective deterrent for this type of theft.

Furthermore, Senate Bill 104 aids in identifying and curing instances of permanent fund dividend fraud by codifying in statute a fraud investigation unit within the Department of Revenue. This unit will assist the Department of Law in detecting and investigating instances of PFD fraud.

HB 104 (24-LS0519\A

PFD proposed edits

OPTION ONE

This option is a re-write of Section 2, it

- 1) removes paragraph (1) of the A draft which on closer scrutiny is not needed, and
- 2) provides a simpler approach to paragraph (2) of the A draft, eliminating the confusing language discussed in Tuesday's hearing. PFD prefers this option. No changes are proposed to Section 1.

* **Sec. 2.** AS 11.56 is amended by adding a new section to read:

Sec. 11.56.225. Misrepresenting permanent fund eligibility. (a) A person commits the crime of misrepresenting permanent fund eligibility if the person

(1) submits an application for a permanent fund dividend for that person or for another person for a dividend year knowing that the application contains false information relating to eligibility for a permanent fund dividend; or

(2) knowingly gives false information to a public employee relating to a person's eligibility for a permanent fund dividend.

OPTION TWO

This option only removes paragraph (1) which is not needed. No other changes are made to either Section 1 or 2.

* **Sec. 2.** AS 11.56 is amended by adding a new section to read:

Sec. 11.56.225. Misrepresenting permanent fund eligibility. (a) A person commits the crime of misrepresenting permanent fund eligibility if the person

(1) makes a statement in an application for a permanent fund dividend and the person would have violated AS 11.56.210 if the statement were not an application for a permanent fund dividend; or

(2) makes a statement that the person does not believe to be true to a public employee with intent to mislead the public employee about a person's eligibility for a permanent fund dividend.

Dr. Joe Sonneman
324 Willoughby, Juneau AK 99801

February 24, 2005

Senate State Affairs
Alaska Capitol
Juneau AK 99811

Re: Senate Bill 104

My apologies for leaving at 4:25 yesterday, but the Alaska Supreme Court was holding a CLE [Continuing Legal Education] session across the street and that lasted until after 6 pm.

I had signed up to testify on SB 104, but instead submit my brief comments here. These comments have to do more with the need for investigation, than about the bill itself.

In 2004, I chaired "Alaskans for Fair Elections," the group that raised \$10,000 to get the Recount of the U.S. Senate election under way. As part of that process, we learned a lot about various election procedures.

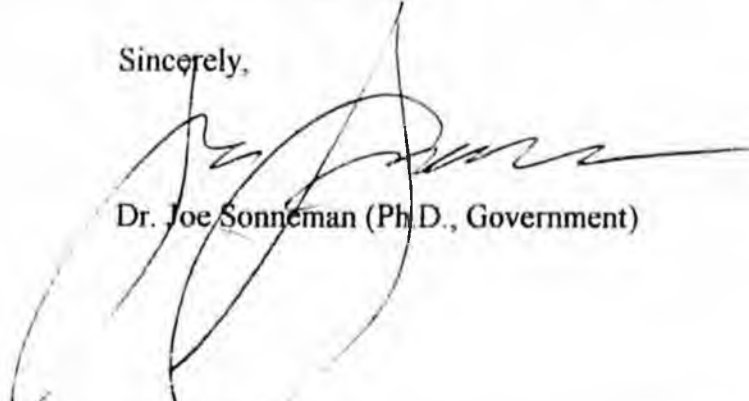
For example, I wrote the Division of Elections some questions, including one like this: 'When someone votes absentee in an Alaskans election, sending in an absentee ballot from another State, what steps does Alaska take to make sure that person does not ALSO vote in that other State's election?'

The Division of Elections wrote back about like this: "Since there is no centralized federal database saying who votes in which election, Alaska takes NO steps to crosscheck against such a possibility."

I think this is perhaps doing too little, especially because some people may be tempted by PFDs to try to continue voting in Alaskan elections after they are really no longer Alaska residents. Instead, I think Elections could readily discover which 3-4 States hold MOST of the people who vote absentee in Alaska elections. Alaska's Division of Elections could then seek to form BILATERAL agreements with those States, to share our voting rolls with them, in exchange for their sharing their voter rolls with us. In that way, Alaska could probably get 80-90% of the absentee voters accounted for, without having to have a centralized Federal database.

As you see, this is somewhat related to the need to investigate PFD fraud, but not so directly related as for me to comment on the bill otherwise. I did think you ought to know about the lack of double-checks by Division of Elections, though.

Sincerely,



Dr. Joe Sonneman (Ph.D., Government)