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Chapter No.

21

AN ACT

Providing for the payment of Alaska permanent fund income to state residents; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

Approved by the Governor: April 15, 1980
Actual Effective Date: April 16, 1980 with Sections 1 and 2
retroactive to January 1, 1979.

AN ACT

Providing for the payment of Alaska permanent fund income to state residents; and providing for an effective date.

* Section 1. POLICY, PURPOSES AND FINDINGS. (a) It is the duty and policy of the state with respect to the natural resources belonging to it and the income derived from those natural resources to provide for their use, development, and conservation for the maximum benefit of the people of the state.

(b) The purposes of this Act are

(1) to provide a mechanism for equitable distribution to the people of Alaska of at least a portion of the state's energy wealth derived from the development and production of the natural resources belonging to them as Alaskans;

(2) to encourage persons to maintain their residence in Alaska and to reduce population turnover in the state; and

(3) to encourage increased awareness and involvement by the residents of the state in the management and expenditure of the Alaska permanent fund (art. IX, sec. 15, state constitution).

(c) The legislature finds that the accrual of permanent fund dividends provided in AS 43.23 enacted in sec. 2 of this Act, based on full years of residency since January 1, 1959, fairly compensates each state resident for his equitable ownership of the state's natural resources since the date of statehood. It is in the public interest to distribute a portion of Alaska's

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energy wealth to the people of the state.

(d) The legislature also finds that state residents have been paying increasingly high prices for fossil fuels, while few have received direct monetary benefits from the production and development of fossil fuels belonging to them as Alaskans. It is in the public interest to return to state residents a portion of the state's income from oil, gas, and other mineral production to help offset rising fuel costs.

(e) The legislature also finds that there exists in the state a serious problem of population turnover. A substantial portion of the state's population is comprised of individuals who reside in Alaska for only a relatively short time. This constant turnover in population leads to political, economic, and social instability and is harmful to the state. It is in the public interest for the state to promote a stable resident population by providing an incentive to encourage Alaskans to maintain their residency in the state.

* Sec. 2. AS 43 is amended by adding a new chapter to read:

CHAPTER 23. PERMANENT FUND DIVIDENDS.

Sec. 43.23.010. ELIGIBILITY FOR PERMANENT FUND DIVIDEND. (a) An individual who is eligible under (b) of this section is entitled to one permanent fund dividend for each full year that the individual is a state resident after January 1, 1959.

(b) For each year, an individual is eligible to receive payment of the permanent fund dividends for which he is entitled under this section if he

(1) is at least 18 years of age; and

(2) is a state resident during all or part of the year for which the permanent fund dividend is paid.

(c) To determine the number of permanent fund dividends to which an individual is entitled under (a) of this section, a year in which the

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individual is a state resident for less than 12 months may not be counted, but a payment of a permanent fund dividend may be made for that year under (f) of this section. A year for which an individual was entitled to payment of a dividend but failed to file a claim may be counted to determine the number of dividends under (a) of this section.

(d) An individual may receive payment of a permanent fund dividend in a single payment or in 12 equal installments paid monthly by the department.

(e) An individual eligible to receive payment of a permanent fund dividend may elect to defer receipt of that payment. The commissioner shall adopt by regulation a plan which, to the extent permitted under federal law, will allow an individual to defer payment of federal and state income taxes on the payment of permanent fund dividends until the individual actually receives the payment.

(f) If an individual who is eligible under (b) of this section was a state resident for less than 12 months during the year immediately preceding the year in which a claim is filed, the individual is entitled to payment of one prorated dividend. If that individual is also entitled to dividends under (a) of this section based on previous years as a state resident, he is entitled to receive a prorated payment for the total number of permanent fund dividends to which he is entitled under (a) of this section. A prorated dividend or prorated payment under this subsection shall be prorated on the basis of the number of months that the individual was a state resident during the year immediately preceding the year in which the dividend is claimed.

Sec. 43.23.020. PROOF OF ELIGIBILITY. (a) The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) for determining the eligibility of individuals. The commissioner may require an individual to provide proof of eligibility, or he may use other

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1 information available to him from other state departments or agencies to
2 determine the eligibility of individuals. The commissioner may estab-
3 lish procedures for paying the permanent fund dividends along with other
4 payments of money or state benefits.

5 (b) The department may prescribe and furnish an application form
6 for claiming a permanent fund dividend which contains

7 (1) a statement of eligibility and a certification of resi-
8 dency in substantially the following form:

9 I certify that I am a state resident on the date of this applica-
10 tion and I have been a state resident for _____ full years and that
11 I understand that my claim for a permanent fund dividend is deter-
12 mined by the length of my residence in the state after January 1,
13 1959. I also understand that a false claim of residency to obtain
14 a permanent fund dividend is a criminal offense and that if con-
15 victed I will forfeit all permanent fund dividends and that I must
16 repay all permanent fund dividends which have been paid to me. I
17 understand that this penalty is in addition to any criminal penal-
18 ties imposed.

19 _____
20 (signature of individual)

21 and

22 (2) a statement advising the individual that he may choose to
23 receive the payment of a permanent fund dividend in a single payment or
24 in 12 installments payable monthly and a space where the individual may
25 indicate his choice of payment.

26 Sec. 43.23.030. AMOUNT OF DIVIDEND. By December 1 of each year
27 the commissioner shall give public notice of the value of each perman-
28 ent fund dividend to be paid in the following year. The commissioner shall
29 determine the value of a permanent fund dividend by

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(1) determining the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 43.23.050(b) in the current year, less the amount, if any, to be repaid in the current year to the general fund under AS 43.23.050(c);

(2) determining the number of permanent fund dividends paid during the current year; and

(3) dividing the amount determined in (1) of this section by the amount determined in (2) of this section.

Sec. 43.23.040. PENALTIES AND ENFORCEMENT. (a) In addition to any criminal penalties imposed by state law, if an individual is convicted of unsworn falsification for a statement made in a certification of residency made for purposes of this chapter, and the conviction is not reversed, that individual is not, and may never become, eligible for a permanent fund dividend, and he forfeits all permanent fund dividends paid to him.

(b) If the commissioner determines that a permanent fund dividend should not have been claimed by or paid to an individual, he may use any collection procedures or remedies available under this title to recover the payment of a permanent fund dividend which was improperly made.

Sec. 43.23.050. DIVIDEND FUND ESTABLISHED. (a) The dividend fund is established as a separate fund in the state treasury. The dividend fund shall be administered by the commissioner and may be invested by the commissioner in the same manner provided for the investment of the Alaska permanent fund under AS 37.13.120. Money in the dividend fund and any interest earned from investment of money in the dividend fund shall be used to pay permanent fund dividends annually and to repay loans from the general fund as provided in (c) of this section.

(b) Each year the commissioner shall transfer to the dividend fund 50 percent of the income of the Alaska permanent fund which was earned

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1 during the fiscal year ending on June 30 of the preceding year and which
2 is available for distribution under AS 37.13.140.

3 (c) The legislature may annually appropriate money from the general
4 fund to the dividend fund if there is not enough money in the dividend
5 fund to pay each eligible individual an annual permanent fund dividend
6 valued at \$50. One-fifth of the amount transferred to the dividend fund
7 each year under (b) of this section shall be annually withdrawn from the
8 dividend fund by the commissioner and deposited in the general fund to
9 repay appropriations made under this subsection.

10 Sec. 43.23.060. DUTIES OF THE DEPARTMENT. The department shall

11 (1) by the 10th day of each regular legislative session,
12 present a request to the legislature for an appropriation from the
13 general fund to the dividend fund to satisfy the requirements of AS 43.
14 23.050;

15 (2) annually pay permanent fund dividends from the dividend
16 fund;

17 (3) adopt regulations under the Administrative Procedure Act
18 (AS 44.62) which establish procedures and time limits for claiming a
19 permanent fund dividend; the department shall set the time limit for
20 applications for permanent fund dividends so that single-payment per-
21 manent fund dividends for a year are paid before October 15 of the
22 following year and so that installment-payment permanent fund dividends
23 for a year begin by October 15 of the following year; and

24 (4) assist residents of rural areas who because of language
25 illness, old age, or inaccessibility to public transportation need as-
26 sistance to establish eligibility and to apply for permanent fund divi-
27 dends.

28 Sec. 43.23.070. EXEMPTION OF PERMANENT FUND DIVIDENDS. (a) An
29 eligible individual may assign, pledge, or encumber not more than 50

percent of the annual permanent fund dividends which are due and payable or which may become due and payable to the individual.

(b) Fifty percent of the annual permanent fund dividends payable to an individual is exempt from levy, execution, garnishment, attachment, and any other remedy for the collection of a debt.

(c) Fifty percent of the annual permanent fund dividends paid to an individual which are not held separately from other money of the individual is exempt from levy, execution, garnishment, attachment and any other remedy for the collection of a debt.

Sec. 43.23.080. ELIGIBILITY FOR STATE PUBLIC ASSISTANCE PAYMENTS. In determining the eligibility of an individual for old age assistance under AS 47.25.430 - 47.25.610, aid to the blind under AS 47.25.620 - 47.25.780, or aid to the permanently and totally disabled under AS 47.25.790 - 47.25.970, the Department of Health and Social Services may include as income of the individual only the amount of the permanent fund dividends in excess of \$1,500 paid to the individual for a year.

Sec. 43.23.090. TAX EXEMPTION. Permanent fund dividends provided under this chapter are exempt from taxation under AS 43.20.

Sec. 43.23.100. DEFINITIONS. In this chapter,

- (1) "Alaska permanent fund" means the fund established by art. IX, sec. 15, of the state constitution;
 - (2) "commissioner" means the commissioner of revenue;
 - (3) "department" means the Department of Revenue;
 - (4) "dividend fund" means the fund established by AS 43.23.-
- 050;
- (5) "individual" means a natural person;
 - (6) "permanent fund dividend" means a right to receive a payment of money from the dividend fund;
 - (7) "state resident" means an individual who is physically

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1 present in the state with the intent to remain permanently in the state
2 or, if he is not physically present in the state, intends to return to
3 the state and he is absent for the following reasons:

4 (A) vocational, professional or other special education
5 for which a comparable program was not reasonably available in the
6 state,

7 (B) postsecondary education,

8 (C) military service,

9 (D) medical treatment,

10 (E) service in Congress, or

11 (F) other reasons which the commissioner may establish
12 by regulation under the Administrative Procedure Act (AS 44.62);

13 (8) "year" means a calendar year.

14 * Sec. 3. For 1979 the value of a permanent fund dividend is \$50. The
15 payment of permanent fund dividends for 1979 shall be made from an appropri-
16 tion from the general fund to the dividend fund for that purpose. The amount
17 appropriated from the general fund to pay permanent fund dividends for 1979
18 less 50 percent of the income of the Alaska permanent fund earned during the
19 fiscal year ending June 30, 1978, is a loan to the dividend fund from the
20 general fund which shall be repaid as provided in AS 43.23.050(c) enacted by
21 sec. 2 of this Act. The Department of Revenue shall by July 1, 1980, pre-
22 scribe and make available an application form for claiming permanent fund
23 dividends for 1979. The Department of Revenue shall mail the form to each
24 individual who, before July 1, 1980, filed a resident or part-year resident
25 Alaska net income tax return for the 1979 tax year under AS 43.20. An eli-
26 gible individual may receive payment of permanent fund dividends for 1979 if
27 he applies to the Department of Revenue on the form prescribed by the de-
28 partment no later than September 1, 1980. The application must be accom-
29 panied by a statement of eligibility as required by AS 43.23.020 enacted in

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sec. 2 of this Act.

* Sec. 4. If any provision enacted in sec. 2 of this Act is held to be invalid by the final judgment, decision or order of a court of competent jurisdiction, then that provision is nonseverable, and all provisions enacted in sec. 2 of this Act are invalid and of no force or effect.

* Sec. 5. Sections 1 and 2 of this Act are retroactive to January 1, 1979.

* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-070(c).