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PFD hangs on critical opinion

• **DIVIDENDS:** Attorney General Gregg Renkes to interpret spending limit law.

By **WESLEY LOY**
Anchorage Daily News

Alaska Attorney General Gregg Renkes said Friday he hopes to finish a legal opinion by mid-April that could have a major bearing on whether Alaskans receive a Permanent Fund dividend this fall.

The opinion was requested of Renkes on March 14 by the board of trustees of the Alaska Permanent Fund Corp., manager of the state's \$22.8 billion oil wealth savings account. Renkes himself is on the six-member board.

The board also is struggling with how to word a proposed constitutional amendment to fundamentally change the way money is spent out of the Permanent Fund.

The immediate worry is that the Permanent Fund might not be able to fully pay dividends without dipping into the principal of the fund. The reason is heavy stock market losses suffered in recent years by the fund as well as most other American investors.

The vast majority of the Permanent Fund is principal. Only money in the fund's earnings reserve account, which holds profits from stock, bond and real estate investments, is available for dividends.

As of Thursday, the earnings reserve account held just over \$600 million. The Permanent Fund staff projects that about \$700 million will be needed this year to pay full dividends to Alaskans, plus another \$350 million to pad the fund's principal against inflation.

If stock market investments have dropped or held steady by June 30, the last day of the state budget year, Alaska residents could receive no dividend or only a partial dividend, Permanent Fund officials say.

Last year, qualified Alaskans received \$1,541 each.

There's two ways to avoid an unhappy outcome: A market rally, or a legal interpretation from Renkes that could allow some more spending by the fund.

As for the first out, "The earnings reserve can vary by a few hundred million dollars a day, easily," said Bob Bartholomew, the fund's chief operating officer. So if, on June 30, the reserve is up enough to cover the dividends, the crisis is over for another year, he said.



Renkes

As for the other potential cure, Renkes said Friday he and his staff will do a complex legal analysis of the constitution, state statutes and accounting practices to clear up questions about just deeply the Permanent Fund can be tapped to pay dividends.

"I'm going to look at this based on what the law requires," he said. "I can't take into consideration the financial condition of the fund, or the potential for large or small dividends."

According to the Permanent Fund board's memo to Renkes requesting the opinion, state laws and the constitution are not entirely clear about how to determine the size of the earnings reserve account, or the extent that the fund's principal must be protected.

The main question is how to treat "unrealized" earnings, which are the value of the fund's stocks and bonds if sold today versus their original purchase prices. Recently, a lot of Permanent Fund stocks have lagged their purchase prices, in contrast to most of the fund's history when it had ample profits and plenty in the earnings reserve for dividends.

Renkes must determine if state law would allow the Permanent Fund to ignore unrealized losses and pay full dividends, even if that meant the principal would fall for the first time.

He and other board members at a meeting this week in Anchorage also wrestled with the language of a proposed constitutional amendment to fundamentally change the fund's spending rules.

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The amendment potentially would permit total annual expenditures from the fund of up to 5 percent of its market value. Permanent Fund staffers figure 5 percent would be sufficient to cover annual dividends and inflation proofing and still grow the fund. That's because earnings are expected to average well in excess of 5 percent over the coming years and decades.

The board members balked at the meeting, however, at the idea of simply eliminating the distinction between fund principal and earnings and treating the fund as a single pot of money. They will meet again on April 7.

Removing the distinction might be a good idea, Renkes said, but he added that as a trustee, he has some reservations.

"I'm concerned that if we manage the fund to produce a dividend each year, then we'll be drawn to short-term investment options that over the life of the fund will not produce the most value for the Permanent Fund and for Alaskans," he said.

For instance, he said, fund managers might, in lean years, feel pressure to invest more money in bonds, which tend to be more reliable earners, than in stocks, which can swing much higher or lower in value but that tend to outperform bonds over the long haul.

Renkes said he wants to finish his legal opinion as quickly as possible and then see the Permanent Fund board make recommendations for the Legislature to act this session to put the constitutional amendment on the November 2004 general election ballot.

That would provide plenty of time for Alaskans to debate and understand what is a "very complicated and very important" matter, he said.

"It's not the kind of thing that we want people voting on based on a short-term public relations campaign of one sort or another," Renkes said.

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PFD: Attorney general ponders spending limits