

**HOUSE BILL NO. 76**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/18/13

Referred: Labor and Commerce, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to electronic filing of certain information with the Department of  
2 Labor and Workforce Development; relating to surcharges, rate increase reduction,  
3 prohibition on the relief of certain charges, the unemployment trust fund account, and  
4 the offset of certain unemployment compensation debt under the Alaska Employment  
5 Security Act; relating to the definition of 'covered unemployment compensation debt' in  
6 the Alaska Employment Security Act; and providing for an effective date."

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

8 \* **Section 1.** AS 23.05 is amended by adding new sections to read:

9 **Sec. 23.05.055. Electronic filing.** Notwithstanding any contrary provision of  
10 the law, if the commissioner determines by order that it is in the public interest, the  
11 commissioner may authorize electronic filing of certain information with the  
12 department in a format prescribed by the department as an additional means of filing  
13 under this title. If the commissioner authorizes electronic filing, the department shall

1 consider the electronic filing as the equivalent to paper filing for purposes of  
2 compliance with other requirements of this title. Electronic filings authorized under  
3 this section are the equivalent to paper filings for the purposes of civil or criminal  
4 penalties for violations of this title or AS 11.

5 \* **Sec. 2.** AS 23.20 is amended by adding a new section to read:

6 **Sec. 23.20.021. Certain appropriations to the fund.** In accordance with  
7 AS 37.07 (Executive Budget Act), the legislature may appropriate money into the  
8 fund.

9 \* **Sec. 3.** AS 23.20 is amended by adding a new section to read:

10 **Sec. 23.20.279. Prohibition on relief of certain charges to an employer's**  
11 **account.** (a) An employer's account must not be relieved of charges relating to a  
12 payment that was made erroneously from the unemployment trust fund if the  
13 department determines that

14 (1) the erroneous payment was made because the employer, or an  
15 agent of the employer, was at fault for failing to respond timely or adequately to a  
16 documented request from the department for information relating to the claim for  
17 unemployment compensation; and

18 (2) the employer, or an agent of the employer, has established a pattern  
19 of failing to respond timely or adequately to requests in (1) of this section.

20 (b) In this section,

21 (1) "erroneous payment" means a payment that but for the failure by  
22 the employer or the employer's agent with respect to the claim for unemployment  
23 compensation would not have been made;

24 (2) "pattern of failing" means repeated documented failure on the part  
25 of the employer or the agent of the employer to respond taking into consideration the  
26 number of instances of failure in relation to the total volume of requests; however, an  
27 employer or employer's agent failing to respond as described in (a)(2) of this section  
28 may not be determined to have engaged in a pattern of failure if the number of the  
29 failures during the year before the request is made is fewer than two or less than two  
30 percent of the requests, whichever is greater.

31 \* **Sec. 4.** AS 23.20.290(f) is repealed and reenacted to read:

1 (f) An employer shall pay a fund solvency adjustment surcharge if the reserve  
 2 rate is less than three percent. The surcharge is a percent equal to the difference  
 3 between three percent and the reserve rate, rounded to the nearest 1/100th of one  
 4 percent. An employer shall receive a fund solvency adjustment credit if the reserve  
 5 rate is greater than 3.3 percent. The credit is a percent equal to the difference between  
 6 3.3 percent and the reserve rate rounded to the nearest 1/100th of one percent. The  
 7 solvency surcharge may not be greater than 1.1 percent and the solvency credit must  
 8 not be greater than 0.4 percent. However, the fund solvency adjustment surcharge of  
 9 an employer may not increase more than three-tenths of one percent from one year to  
 10 the next year.

11 \* **Sec. 5.** AS 23.20 is amended by adding a new section to read:

12 **Sec. 23.20.291. Rate increase reductions.** (a) When the most current average  
 13 high cost multiple published by the United States Department of Labor, Employment  
 14 and Training Administration is 0.8 or above on September 30 in the year preceding the  
 15 year for which rates are being calculated, the commissioner shall consult with the  
 16 actuary in the department regarding the expected unemployment rate for the next tax  
 17 year, the expected number and amount of state funds needed to pay claims for state-  
 18 funded benefits for the next tax year, and the expected amount of state tax revenue.  
 19 Based on the actuary's advice and any other relevant information, the commissioner  
 20 may suspend, in whole or in part, any unemployment rate of contribution increases  
 21 that would have occurred for that year under the calculation of rate of contributions  
 22 described in AS 23.20.290. If an increase of rate of contribution calculated under  
 23 AS 23.20.290 is suspended, in whole or in part, the calculation of the fund solvency  
 24 adjustment as described in AS 23.20.290(f) for the subsequent year must reference the  
 25 results of the last rate of contribution calculation for which the increase was not  
 26 suspended, in whole or in part, for determining the level from which the fund solvency  
 27 adjustment may not increase more than three-tenths of one percent.

28 (b) In this section "average high cost multiple" has the meaning given  
 29 in 20 C.F.R. 606.3.

30 \* **Sec. 6.** AS 23.20.390(f) is amended to read:

31 (f) In addition to the liability under (a) of this section for the amount of

1 benefits improperly paid, an individual who is disqualified from receipt of benefits  
 2 under AS 23.20.387 is liable to the department for a penalty in an amount equal to 50  
 3 percent of the benefits that were obtained by knowingly making a false statement or  
 4 misrepresenting a material fact, or knowingly failing to report a material fact, with the  
 5 intent to obtain or increase benefits under this chapter. [THE DEPARTMENT MAY,  
 6 UNDER REGULATIONS ADOPTED UNDER THIS CHAPTER, WAIVE THE  
 7 COLLECTION OF A PENALTY UNDER THIS SECTION.] The department shall  
 8 deposit into the unemployment trust fund account a minimum of 30 percent of the  
 9 penalties collected because of benefits that were obtained by knowingly making a  
 10 false statement or misrepresenting a material fact, or knowingly failing to report  
 11 a material fact, with the intent to obtain or increase benefits under this chapter  
 12 [GENERAL FUND THE PENALTY THAT IT COLLECTS].

13 \* **Sec. 7.** AS 23.20 is amended by adding a new section to read:

14 **Sec. 23.20.486. Participation in the federal offset program.** In addition to  
 15 any remedies authorized by this chapter, the department may offset any covered  
 16 unemployment compensation debt against a claimant's federal income tax refund in  
 17 accordance with 26 U.S.C. 6402.

18 \* **Sec. 8.** AS 23.20.520 is amended by adding a new paragraph to read:

19 (23) "covered unemployment compensation debt" means

20 (A) a past due debt for erroneous payment of unemployment  
 21 compensation under this chapter due to fraud or the person's failure to report  
 22 earnings that has become final under that law and remains uncollected;

23 (B) contributions due to the unemployment trust fund for which  
 24 a person is liable and which remain uncollected; and

25 (C) any penalties and interest assessed on the debt.

26 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
 27 read:

28 APPLICABILITY. AS 23.20.279, added by sec. 3 of this Act, applies to overpaid  
 29 benefits established after October 21, 2013.

30 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to  
 31 read:

1           TRANSITION: REGULATIONS. The Department of Labor and Workforce  
2 Development may proceed to adopt regulations necessary to implement the changes made by  
3 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not  
4 before July 1, 2013.

5       \* **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).

6       \* **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect on July 1, 2013.