

**SENATE CS FOR CS FOR HOUSE BILL NO. 378(FIN) am S**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Amended: 4/19/00**

**Offered: 4/18/00**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the establishment of, assessment of, collection of, and  
2 accounting for service fees for state administration of workers' compensation and  
3 workers' safety programs; establishing civil penalties and sanctions for late  
4 payment or nonpayment of the service fee; and providing for an effective date."

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

6 \* **Section 1.** AS 21.09.150(a) is amended to read:

7 (a) The director may suspend or revoke an insurer's certificate of authority if,  
8 after a hearing, the director finds that the insurer has violated a lawful order of the  
9 director or a provision of this title other than those for which suspension or revocation  
10 is mandatory or has not paid any annual service fees assessed under AS 23.05.067.

11 \* **Sec. 2.** AS 23.05 is amended by adding a new section to read:

12 **Sec. 23.05.067. Service fees for administration of workers' safety and**  
13 **compensation programs.** (a) Each insurer providing workers' compensation  
14 insurance and each employer who is self-insured or uninsured for purposes of

AS 23.30 in this state shall pay an annual service fee to the department for the administrative expenses of the state for workers' safety programs under AS 18.60 and the workers' compensation program under AS 23.30 as follows:

(1) for each employer,

(A) except as provided in (b) of this section, the service fee shall be paid each year to the department at the time that the annual report is required to be filed under AS 23.30.155(m) or (n); and

(B) the service fee is 2.9 percent of all payments reported to the Alaska Workers' Compensation Board under AS 23.30.155(m) or (n), except second injury fund payments; and

(2) for each insurer, the director of the division of insurance shall, under (e) of this section, deposit from funds received from the insurer under AS 21.09.210 a service fee of 1.82 percent of the direct premium income for workers' compensation insurance received by the insurer during the year ending on the preceding December 31, subject to all the deductions specified in AS 21.09.210(b).

(b) An employer who is required to pay an annual service fee under (a) of this section may elect to pay in yearly increments over a five-year period the portion of the service fee due under (a) of this section as a result of a settlement of over \$50,000 approved under AS 23.30.012. An election under this subsection must be made in the first year that a service fee would be due as a result of the settlement. The employer shall notify the department of an election under this subsection. If an election is made, payment of each yearly increment that is due shall be made at the time the annual report is required to be filed under AS 23.30.155(m) or (n).

(c) Payment of the annual service fee under this section shall be made in the manner and by the method specified by the department.

(d) If an employer who is required to pay an annual service fee under this section does not pay the required amount of the service fee by the time specified in this section, the employer shall pay a civil penalty of \$100 for the first day the payment is late and \$10 a day for each additional day the payment is late. The civil penalty under this subsection is in addition to any civil penalties imposed for late filings of reports under AS 23.30.155(m).

(e) Annual service fees and civil penalties collected under this section shall be deposited in the workers' safety and compensation administration account in the state treasury. Under AS 37.05.146(b), the service fees and civil penalties shall be accounted for separately, and appropriations from the account are not made from the unrestricted general fund. The legislature may appropriate money from the account for expenditures by the department for necessary costs incurred by the department in the administration of the workers' safety programs contained in AS 18.60 and of the Alaska Workers' Compensation Act contained in AS 23.30. Nothing in this subsection creates a dedicated fund or dedicates the money in the account for a specific purpose. Money deposited in the account does not lapse at the end of a fiscal year unless otherwise provided by an appropriation.

(f) The department may adopt regulations to implement this section.

(g) Notwithstanding AS 21.76.020(a), a joint insurance arrangement established under AS 21.76 is subject to the provisions of this section and regulations adopted under this section and, if self-insured, is subject to the annual service fee on behalf of its members.

(h) The department shall grant a credit against the service fee imposed under (a)(1) of this section to an employer if (1) the employer applies to the department for the credit on a form prescribed by the department; (2) the employer provides proof that the employer has paid a premium tax imposed under AS 21.09.210 on an insurance policy; and (3) workers' compensation claims have been paid under the insurance policy described in (2) of this subsection and the claims are subject to the service fee imposed under (a) of this section. The credit allowed under this subsection is equal to the amount of the premium tax paid by the employer under the insurance policy, may not exceed the service fee imposed under (a) of this section, and only applies to premium taxes paid by the employer on or after January 1, 2000.

(i) In this section, "insurer" has the meaning given in AS 21.90.900.

**\* Sec. 3.** AS 23.30.015(e) is amended to read:

(e) An amount recovered by the employer under an assignment, whether by action or compromise, shall be distributed as follows:

(1) the employer shall retain an amount equal to

(A) the expenses incurred by the employer with [IN] respect to the action or compromise, including a reasonable attorney fee determined by the board;

(B) the cost of all benefits actually furnished by the employer under this chapter;

(C) all amounts paid as compensation and second-injury fund payments, and, if the employer is self-insured or uninsured, all service fees paid under AS 23.05.067;

(D) the present value of all amounts payable later as compensation, [(PRESENT VALUE TO BE] computed from a schedule prepared by the board; [),] and the present value of the cost of all benefits to be furnished later under AS 23.30.095 [(] as estimated by the board; [),] the amounts so computed and estimated to be retained by the employer as a trust fund to pay compensation and the cost of benefits as they become due and to pay any finally remaining excess sum to the person entitled to compensation or to the representative; and

(2) the employer shall pay any excess to the person entitled to compensation or to the representative of that person.

\* **Sec. 4.** AS 23.30.090 is amended to read:

**Sec. 23.30.090. Self-insurance certificates.** If an employer has complied with the provisions of this chapter relating to self-insurance and has paid annual service fees assessed under AS 23.05.067, the board shall issue the employer a certificate that [WHICH] shall remain in force for a period fixed by the board. The board may, upon at least 10 days' notice and a hearing, revoke a self-insurance certificate upon satisfactory proof that an employer is no longer entitled to it. After revocation, the board may grant a new certificate to an employer, upon the employer's petition and satisfactory proof of the employer's financial ability as provided in this chapter. An employer authorized as a self-insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or independent, licensed, resident adjusters with power to effect settlement within the state.

\* **Sec. 5.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

1 (X) workers' safety and compensation administration account  
 2 (AS 23.05.067);

3 \* **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section  
 4 to read:

5 TRANSITION: PHASE-IN OF FEES FOR EMPLOYERS. (a) Notwithstanding the  
 6 amount of the annual service fee set by AS 23.05.067(a), enacted by sec. 2 of this Act, the  
 7 annual service fee for employers equals the following percentages of all payments reported  
 8 to the Alaska Workers' Compensation Board under AS 23.30.155(m) and (n), except second  
 9 injury payments:

10 (1) for payment due in 2001, 3.6 percent;

11 (2) for payment due in 2002, 3.4 percent;

12 (3) for payment due in 2003, 3.2 percent.

13 (b) Notwithstanding the amount of the annual service fee set by AS 23.05.067(a)(1)  
 14 and (b), enacted by sec. 2 of this Act, the state, a political subdivision of the state, a joint  
 15 insurance arrangement authorized under AS 21.76, and other employers who are self-insured  
 16 under AS 23.30.090 shall instead pay an annual service fee of the following amounts in the  
 17 following years:

18 (1) for payment due in 2001, 25 percent of the amount calculated for the  
 19 service fee under AS 23.05.067;

20 (2) for payment due in 2002, 50 percent of the amount calculated for the  
 21 service fee under AS 23.05.067;

22 (3) for payment due in 2003, 75 percent of the amount calculated for the  
 23 service fee under AS 23.05.067; and

24 (4) for payment due in 2004 and subsequent years, 100 percent of the amount  
 25 calculated for the service fee under AS 23.05.067.

26 \* **Sec. 7.** The uncoded law of the State of Alaska is amended by adding a new section  
 27 to read:

28 TRANSITION: SERVICE FEE FOR INSURERS. Notwithstanding the allocation of  
 29 the annual service fee imposed under AS 23.05.067(a)(2), enacted by sec. 2 of this Act, the  
 30 director of the division of insurance shall allocate the annual service fee during the years  
 31 2000, 2001, and 2002 as follows:

1 (1) for untaxed premium income in 2000, 2.31 percent shall be deposited into  
2 the workers' safety and compensation administration account in the state treasury, and .39  
3 percent shall be deposited into the unrestricted general fund;

4 (2) for premium income in 2001, 2.17 percent shall be deposited into the  
5 workers' safety and compensation administration account in the state treasury, and .53 percent  
6 shall be deposited into the unrestricted general fund; and

7 (3) for premium income in 2002, 2.03 percent shall be deposited into the  
8 workers' safety and compensation administration account in the state treasury, and .67 percent  
9 shall be deposited into the unrestricted general fund.

10 \* **Sec. 8.** The uncoded law of the State of Alaska is amended by adding a new section  
11 to read:

12 **TRANSITION: REGULATIONS.** The director of the division of insurance in the  
13 Department of Community and Economic Development, and the Department of Labor and  
14 Workforce Development, may proceed to adopt regulations necessary to implement this Act.  
15 Regulations to implement a provision of this Act take effect under AS 44.62 (Administrative  
16 Procedure Act), but not before the effective date of secs. 1 - 5 of this Act.

17 \* **Sec. 9.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).

18 \* **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2001.