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3/18/13

CS FOR HOUSE BILL NO. 76(L&C)**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-EIGHTH LEGISLATURE - FIRST SESSION****BY THE HOUSE LABOR AND COMMERCE COMMITTEE****Offered:****Referred:****Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR****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 fund solvency adjustments, rate
3 increase reduction, prohibition on the relief of certain charges, the unemployment trust
4 fund account, and the offset of certain unemployment compensation debt under the
5 Alaska Employment Security Act; relating to the definition of 'covered unemployment
6 compensation debt' in the Alaska Employment Security Act; and providing for an
7 effective date."

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

9 * **Section 1.** AS 23.05 is amended by adding a new section to read:

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

under this title. If the commissioner authorizes electronic filing, the department shall consider the electronic filing as equivalent to paper filing for purposes of compliance with other requirements of this title. Electronic filings authorized under this section are equivalent to paper filings for the purposes of civil or criminal penalties for violations of this title or AS 11.

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

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

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

Sec. 23.20.279. Prohibition on relief of certain charges to an employer's account. (a) An employer's account may not be relieved of charges relating to a payment that was made erroneously from the unemployment trust fund account (AS 23.20.135(a)) if the department determines that

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

(2) the employer or an agent of the employer has established a pattern of failing to respond timely or adequately to requests under (1) of this subsection.

(b) In this section,

(1) "erroneous payment" means a payment that, but for the failure by the employer or an agent of the employer with respect to the claim for unemployment compensation, would not have been made;

(2) "pattern of failing" means repeated documented failure by the employer or the agent of the employer to respond, taking into consideration the number of instances of failure in relation to the total volume of requests; however, an employer or an agent of the employer that fails to respond as described in (a)(2) of this section may not be determined to have engaged in a pattern of failure if the number of failures during the year before the request is made is fewer than two or the percentage of failures is less than two percent.

* **Sec. 4.** AS 23.20.290(c) is amended to read:

(c) The rate of contributions for each employer is a percentage of the average benefit cost rate multiplied by the employer's experience factor set out in column C of the table in this subsection opposite the employer's applicable rate class set out in column A plus the fund solvency adjustment surcharge required under (f) of this section. That percentage is 76 percent beginning January 1, 2009, and 73 percent beginning January 1, 2010. However, the rate of contributions for an employer may not be less than one percent or more than six and one-half percent. The rate of contributions for an employer in rate class 21 may not be less than 5.4 percent. The rate of contributions for an employer must be rounded to the nearest 1/100th of one percent.

COLUMN A	COLUMN B		COLUMN C
	Cumulative		Experience
Rate Class	Ratable Payroll		Factor
	at least	but less than	
	(percent)	(percent)	
1		5	.40
2	5	10	.45
3	10	15	.50
4	15	20	.55
5	20	25	.60
6	25	30	.65
7	30	35	.70
8	35	40	.80
9	40	45	.90
10	45	50	1.00
11	50	55	1.00
12	55	60	1.10
13	60	65	1.20
14	65	70	1.30
15	70	75	1.35
16	75	80	1.40

1	17	80	85	1.45
2	18	85	90	1.50
3	19	90	95	1.55
4	20	95	99.99	1.60
5	21	99.99		1.65.

* **Sec. 5.** AS 23.20.290(f) is repealed and reenacted to read:

(f) An employer shall pay a fund solvency adjustment surcharge if the reserve rate is less than three percent. The surcharge is a percentage equal to the difference between three percent and the reserve rate, rounded to the nearest 1/100 of one percent. An employer shall receive a fund solvency adjustment credit if the reserve rate is greater than 3.3 percent. The credit is a percentage equal to the difference between 3.3 percent and the reserve rate rounded to the nearest 1/100 of one percent. The solvency surcharge may not be greater than 1.1 percent, and the solvency credit may not be greater than 0.4 percent. However, an employer's fund solvency adjustment surcharge may not increase more than 0.3 percent from one year to the next year.

* **Sec. 6.** AS 23.20 is amended by adding a new section to read:

Sec. 23.20.291. Rate increase reductions. (a) When the most current average high cost multiple published by the United States Department of Labor, Employment and Training Administration, is 0.8 or above on September 30 in the year preceding the year for which rates are being calculated, the commissioner shall consult with the actuary in the department regarding the expected unemployment rate for the next tax year, the expected number and amount of state funds needed to pay claims for state-funded benefits for the next tax year, and the expected amount of state tax revenue. Based on the actuary's advice and any other relevant information, the commissioner may suspend, in whole or in part, any unemployment rate of contribution increases that would have occurred for that year under the calculation of the rate of contributions described in AS 23.20.290. If an increase of the rate of contribution calculated under AS 23.20.290 is suspended, in whole or in part, the calculation of the fund solvency adjustment surcharge as described in AS 23.20.290(f) for the subsequent year must refer to the results of the last rate of contribution calculation for

1 which the increase was not suspended, in whole or in part, when determining the level
2 from which the fund solvency adjustment may not increase by more than 0.3 percent.

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

5 * **Sec. 7.** AS 23.20.390(f) is amended to read:

6 (f) In addition to the liability under (a) of this section for the amount of
7 benefits improperly paid, an individual who is disqualified from receipt of benefits
8 under AS 23.20.387 is liable to the department for a penalty in an amount equal to 50
9 percent of the benefits that were obtained by knowingly making a false statement or
10 misrepresenting a material fact, or knowingly failing to report a material fact, with the
11 intent to obtain or increase benefits under this chapter. [THE DEPARTMENT MAY,
12 UNDER REGULATIONS ADOPTED UNDER THIS CHAPTER, WAIVE THE
13 COLLECTION OF A PENALTY UNDER THIS SECTION.] The department shall
14 deposit into the unemployment trust fund account (AS 23.20.130(b)(2)) a
15 minimum of 30 percent of the penalties collected because of benefits that were
16 obtained by knowingly making a false statement or misrepresenting a material
17 fact, or knowingly failing to report a material fact, with the intent to obtain or
18 increase benefits under this chapter [GENERAL FUND THE PENALTY THAT IT
19 COLLECTS].

20 * **Sec. 8.** AS 23.20 is amended by adding a new section to read:

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

25 * **Sec. 9.** AS 23.20.520 is amended by adding a new paragraph to read:

26 (23) "covered unemployment compensation debt" means

27 (A) a past due debt for erroneous payment of unemployment
28 compensation under this chapter because of fraud or the person's failure to
29 report earnings that has become final under this chapter and that remains
30 uncollected;

31 (B) contributions due to the unemployment trust fund account

(AS 23.20.130(b)(2)) for which a person is liable and that remain uncollected;

and

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

* **Sec. 10.** AS 23.20.291 is repealed July 1, 2018.

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

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

* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

* **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).

* **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect July 1, 2013.