

SENATE CS FOR CS FOR HOUSE BILL NO. 378(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/18/00

Referred: Rules

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

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

4 (1) for each employer,

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

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

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

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

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

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

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

12 (f) The department may adopt regulations to implement and interpret this
13 section.

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

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

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

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

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

1 (1) the employer shall retain an amount equal to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 2000, 2001, and 2002 as follows:

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

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

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

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

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

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

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