

**CS FOR HOUSE BILL NO. 378(RLS)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 4/11/00

Referred: Today's Calendar

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 21.09.270(b) is amended to read:

12 (b) This section does not apply to

13 (1) personal income taxes, or to ad valorem taxes on real or personal  
14 property or to special purpose obligations or assessments imposed by another state in

1 connection with particular kinds of insurance other than property insurance, [;] except  
 2 that deductions from premium taxes or other taxes otherwise payable allowed on  
 3 accounts of real estate or personal property taxes paid shall be taken into consideration  
 4 by the director in determining the propriety and extent of retaliatory action under this  
 5 section; [OR]

6 (2) a health care insurer who issues health care insurance to the state,  
 7 a municipality, a city or borough school district, a regional educational attendance area,  
 8 the University of Alaska, or a community college operated by the University of  
 9 Alaska; in this paragraph, "health care insurer" has the meaning given in  
 10 AS 21.54.500; or

11 **(3) the annual service fees assessed under AS 23.05.067.**

12 \* **Sec. 3.** AS 23.05 is amended by adding a new section to read:

13 **Sec. 23.05.067. Service fees for administration of workers' safety and**  
 14 **compensation programs.** (a) Each insurer providing workers' compensation  
 15 insurance and each employer who is self-insured or uninsured for purposes of  
 16 AS 23.30 in this state shall pay an annual service fee to the department for the  
 17 administrative expenses of the state for workers' safety programs under AS 18.60 and  
 18 the workers' compensation program under AS 23.30 as follows:

19 (1) for each employer,

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

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

26 (2) for each insurer,

27 (A) the service fee is payable on the same payment schedule  
 28 that applies to the tax on premium income for workers' compensation insurance  
 29 under AS 21.09.210(b);

30 (B) notwithstanding (e) of this section, the director of the  
 31 division of insurance shall deposit into the unrestricted general fund .88 percent

1 of the total direct premium income reported under AS 21.09.210 during the  
2 year ending on the preceding December 31 and paid for workers' compensation  
3 insurance, subject to all the deductions specified in AS 21.09.210(b); and

4 (C) the director of the division of insurance shall deposit 1.82  
5 percent of the total direct premium income reported under AS 21.09.210 during  
6 the year ending on the preceding December 31 and paid for workers'  
7 compensation insurance, subject to all the deductions specified in  
8 AS 21.09.210(b), under (e) of this section.

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

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

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

25 (e) Annual service fees and civil penalties collected under this section shall be  
26 deposited in the workers' safety and compensation administration account in the state  
27 treasury. Under AS 37.05.146(b), the service fees and civil penalties shall be  
28 accounted for separately, and appropriations from the account are not made from the  
29 unrestricted general fund. The legislature may appropriate money from the account  
30 for expenditures by the department for necessary costs incurred by the department in  
31 the administration of the workers' safety programs contained in AS 18.60 and of the

1 Alaska Workers' Compensation Act contained in AS 23.30. Nothing in this subsection  
 2 creates a dedicated fund or dedicates the money in the account for a specific purpose.  
 3 Money deposited in the account does not lapse at the end of a fiscal year unless  
 4 otherwise provided by an appropriation.

5 (f) The department may adopt regulations to implement and interpret this  
 6 section.

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

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

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

22 \* **Sec. 4.** AS 23.30.015(e) is amended to read:

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

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

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

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

31 (C) all amounts paid as compensation and second-injury fund

1            payments, and, if the employer is self-insured or uninsured, all service fees  
 2            paid under AS 23.05.067;

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

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

13       \* **Sec. 5.** AS 23.30.090 is amended to read:

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

25       \* **Sec. 6.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

26                (X) workers' safety and compensation administration account  
 27                (AS 23.05.067);

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

30                **TRANSITION: PHASE-IN OF FEES FOR EMPLOYERS.** (a) Notwithstanding the  
 31       amount of the annual service fee set by AS 23.05.067(a), enacted by sec. 3 of this Act, the

1 annual service fee for employers equals the following percentages of all payments reported  
2 to the Alaska Workers' Compensation Board under AS 23.30.155(m) and (n), except second  
3 injury payments:

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

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

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

7 (b) Notwithstanding the amount of the annual service fee set by AS 23.05.067(a)(1)  
8 and (b), enacted by sec. 3 of this Act, the state, a political subdivision of the state, a joint  
9 insurance arrangement authorized under AS 21.76, and other employers who are self-insured  
10 under AS 23.30.090 shall instead pay an annual service fee of the following amounts in the  
11 following years:

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

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

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

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

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

22 **TRANSITION: SERVICE FEE FOR INSURERS.** Notwithstanding the allocation of  
23 the annual service fee imposed under AS 23.05.067(a)(2), enacted by sec. 3 of this Act, the  
24 director of the division of insurance shall allocate the annual service fee during the years  
25 2000, 2001, and 2002 as follows:

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

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

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

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

6           **TRANSITION: REGULATIONS.** The director of the division of insurance in the  
7 Department of Community and Economic Development, and the Department of Labor and  
8 Workforce Development, may proceed to adopt regulations necessary to implement or interpret  
9 this Act. Regulations to implement or interpret a provision of this Act take effect under  
10 AS 44.62 (Administrative Procedure Act), but not before the effective date of secs. 1 - 6 of  
11 this Act.

12    \* **Sec. 10.** Section 9 of this Act takes effect immediately under AS 01.10.070(c).

13    \* **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect January 1, 2001.