

SENATE BILL NO. 272

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/15/00

Referred: Labor and Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act eliminating certain taxes under AS 21.09 on premiums from the sale of
2 workers' compensation insurance; relating to the establishment, assessment,
3 collection, and accounting for service fees for state administration of workers'
4 compensation and worker safety programs; establishing civil penalties and sanctions
5 for late payment or nonpayment of the service fee; and providing for an effective
6 date."

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

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

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

13 * **Sec. 2.** AS 21.09.210(b) is amended to read:

1 (b) Each insurer, and each formerly authorized insurer with respect to
 2 premiums received while an authorized insurer in this state, shall pay a tax on the total
 3 direct premium income received during the year ending on the preceding December 31
 4 and paid for the insurance of property or risks resident or located in the state, other
 5 than wet marine and transportation insurance **or workers' compensation insurance**,
 6 after deducting from the total direct premium income the applicable cancellations,
 7 returned premiums, the unabsorbed portion of any deposit premium, all policy
 8 dividends, unabsorbed premiums refunded to policyholders, refunds, savings, savings
 9 coupons, and other similar returns paid or credited to policyholders with respect to
 10 their policies. Deductions may not be made of cash surrender value of policies.
 11 Considerations received on annuity contracts are not included in the direct premium
 12 income and are not subject to tax. The tax shall be paid to the director at least
 13 annually but not more often than once each quarter on the dates specified by the
 14 director. The method of payment must be by the electronic or other payment method
 15 specified by the director. Except as provided under (m) of this section, the tax is
 16 computed at the rate of

17 (1) for domestic and foreign insurers, except hospital and medical
 18 service corporations, 2.7 percent;

19 (2) for hospital and medical service corporations, six percent of their
 20 gross premiums less claims paid.

21 * **Sec. 3.** AS 21.09.210(e) is amended to read:

22 (e) Payment to the director by an insurer of the tax upon its premiums required
 23 by this section shall be in lieu of all other taxes imposed by the state upon premiums,
 24 franchise, privilege, or other taxes measured by income of the insurer commencing
 25 with the taxable year beginning January 1, 1967. **Payment by an insurer of the**
 26 **annual service fee under AS 23.05.067 shall be in lieu of all taxes imposed by the**
 27 **state upon workers' compensation premiums, franchise, privilege, or other taxes**
 28 **measured by the workers' compensation income of the insurer.**

29 * **Sec. 4.** AS 21.09.210(n) is amended by adding a new paragraph to read:

30 (2) "workers' compensation insurance" has the meaning given in
 31 AS 21.12.070.

1 * **Sec. 5.** AS 21.09.270(b) is amended to read:

2 (b) This section does not apply to

3 (1) personal income taxes, or to ad valorem taxes on real or personal
4 property or to special purpose obligations or assessments imposed by another state in
5 connection with particular kinds of insurance other than property insurance; except that
6 deductions from premium taxes or other taxes otherwise payable allowed on accounts
7 of real estate or personal property taxes paid shall be taken into consideration by the
8 director in determining the propriety and extent of retaliatory action under this section;

9 [OR]

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

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

16 * **Sec 6.** AS 23.05 is amended by adding a new section to read:

17 **Sec. 23.05.067. Service fees for administration of workers' safety and**
18 **compensation programs.** (a) Each insurer, as defined under AS 21, providing
19 workers' compensation insurance and each employer who is self-insured or uninsured
20 for purposes of AS 23.30 in this state shall pay an annual service fee to the department
21 for the administrative expenses of the state for workers' safety programs under
22 AS 18.60 and the workers' compensation program under AS 23.30. Except as
23 provided in (b) of this section, the fee shall be paid each year to the department at the
24 time that the annual report is required to be filed under AS 23.30.155(m) or (n). The
25 service fee is the following percent of all payments reported to the Alaska Workers'
26 Compensation Board under AS 23.30.155(m) or (n):

27 (1) for payment due in 2001, 3.3 percent;

28 (2) for payment due in 2002, 3.1 percent;

29 (3) for payment due in 2003, 2.9 percent;

30 (4) for payment due in 2004 and subsequent years, 2.6 percent.

31 (b) An insurer or an employer who is required to pay an annual service fee

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

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

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

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

28 (e) The department may adopt regulations to implement and interpret this
29 section.

30 (f) Notwithstanding AS 21.76.020(a), a joint insurance arrangement established
31 under AS 21.76 is subject to the provisions of this section and regulations adopted

1 under this section and, if self-insured, shall pay the annual service fee on behalf of its
2 members.

3 * **Sec. 7.** AS 23.30.090 is amended to read:

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

15 * **Sec. 8.** AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

16 (X) workers' safety and compensation administration account
17 (AS 23.05.067);

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

20 **TRANSITION: PHASE-IN OF FEES FOR EMPLOYERS WHO ARE SELF-**
21 **INSURED UNDER AS 23.30.090.** Notwithstanding the amount of the annual service fee set
22 by AS 23.05.067(a) and (b), enacted by sec. 6 of this Act, the state, a political subdivision of
23 the state, a joint insurance arrangement authorized under AS 21.76, and other employers who
24 are self-insured under AS 23.30.090 shall instead pay an annual service fee of the following
25 amounts in the following years:

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

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

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

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

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

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

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

12 * **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect January 1, 2001.