

CS FOR HOUSE BILL NO. 490(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/14/04

Referred: Rules

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the release of employment security records, to the binding effect of**
2 **determinations and decisions regarding unemployment compensation benefits, and to**
3 **contributions, interest, penalties, and payments under the Alaska Employment Security**
4 **Act; providing that property under the Alaska Employment Security Act is not subject**
5 **to the Uniform Unclaimed Property Act; and providing for an effective date."**

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

7 *** Section 1.** AS 23.20.110(g) is amended to read:

8 (g) The requirements of this section concerning the confidentiality of
9 information obtained in the course of administering this chapter apply to officers and
10 employees of a state, [OR] federal, or municipal agency to whom the department
11 provides information as authorized by this section.

12 *** Sec. 2.** AS 23.20.110 is amended by adding a new subsection to read:

13 (q) Upon the written request by a state district attorney, a municipal attorney,

1 a United States attorney, or the Federal Bureau of Investigation, the department may
 2 release to the requestor information under this section for the investigation or
 3 prosecution of a crime or to enforce an order of a court in a criminal matter, including
 4 enforcing probation or parole conditions.

5 * **Sec. 3.** AS 23.20.115 is amended to read:

6 **Sec. 23.20.115. Unauthorized disclosure of information.** A member of the
 7 department, an employee of the department, an agent of the department, or an officer
 8 or employee of a state, [OR] federal, or municipal agency that has been provided with
 9 information by the department who, in violation of AS 23.20.110, makes a disclosure
 10 of information obtained from an employing unit or from an individual in the
 11 administration of this chapter, or a person who has obtained a list of applicants for
 12 work or of claimants or recipients of benefits under this chapter and who uses or
 13 permits the use of the list for a purpose not authorized by AS 23.20.110 is guilty of a
 14 class B misdemeanor.

15 * **Sec. 4.** AS 23.20.225(e) is amended to read:

16 (e) The department shall adopt regulations providing for the disposition of
 17 excess contributions paid to the unemployment compensation fund under
 18 AS 23.20.130 after notice and opportunity for hearing [. THE REGULATIONS
 19 MUST BE SUBSTANTIALLY SIMILAR TO THE PROVISIONS OF AS 34.45.110
 20 - 34.45.430].

21 * **Sec. 5.** AS 23.20.240(f) is amended to read:

22 (f) In this section, "employer" as defined in AS 23.20.520 also includes [,
 23 BUT IS NOT LIMITED TO,] an officer or employee of a corporation, a member,
 24 manager, or employee of a limited liability company, or a member or employee of a
 25 partnership, including a limited partnership and a limited liability partnership,
 26 who, as an officer, employee, manager, or member, is under a duty to pay the
 27 contributions as required by (a) of this section.

28 * **Sec. 6.** AS 23.20.242 is amended to read:

29 **Sec. 23.20.242. Appeals by officer, manager, member, or employee.** The
 30 department shall permit each officer or employee of a corporation, member,
 31 manager, or employee of a limited liability company, or [A] member or employee

1 of a partnership, including a limited partnership and a limited liability
 2 partnership, who is required to pay the contributions and interest owed by the
 3 corporation, limited liability company, or partnership, including the limited
 4 partnership and the limited liability partnership, under AS 23.20.165 - 23.20.278
 5 to appeal individually their duty to pay under those sections.

6 * **Sec. 7.** AS 23.20.390(c) is amended to read:

7 (c) For similar cause and in the same manner, a claim by another state for the
 8 recovery of sums paid as benefits under an employment security law of the other state
 9 is recoverable under this chapter if the sums were [FRAUDULENTLY] obtained by
 10 an individual who is not entitled and the other state has a comparable provision in its
 11 employment security law for recovery of the sums on behalf of this state.

12 * **Sec. 8.** AS 23.20.497 is amended by adding a new subsection to read:

13 (b) In this section, "action" means a court or administrative proceeding not
 14 brought under this chapter or an arbitration proceeding.

15 * **Sec. 9.** AS 23.20.520(10) is amended to read:

16 (10) "employing unit" means one or more departments or other
 17 agencies of the state, a political subdivision of the state, an individual, or a type of
 18 organization, partnership, limited liability company, association, trust, estate, joint
 19 trust company, insurance company, or domestic or foreign corporation, or the receiver,
 20 referee in bankruptcy, trustee, or successor of one of these, or the legal representative
 21 of a deceased person, that [WHICH] has or, after January 1, 1937, had one or more
 22 individuals performing service for it in the state; an individual performing services in
 23 the state for an employing unit that [WHICH] maintains two or more separate
 24 establishments in the state is considered as employed by a single employing unit for
 25 the purposes of this chapter; notwithstanding any provision in this chapter, any
 26 employing unit that [WHICH] employs individuals whose services must be covered
 27 by the unemployment insurance laws of this state after December 31, 1971, as a
 28 condition of approval of the unemployment insurance laws of this state under 26
 29 U.S.C. 3304(a) (Internal Revenue Code of 1954), as amended, will be considered an
 30 employer as to those individuals and is subject to contributions on all wages paid after
 31 December 31, 1971, or reimbursement payments to cover benefits paid based on

1 services performed after December 31, 1971, depending on the applicable law;

2 * **Sec. 10.** AS 23.20.520(10) is repealed and reenacted to read:

3 (10) "employing unit" means an individual or type of organization,
 4 partnership, limited liability company, association, trust, estate, joint trust company,
 5 insurance company, or domestic or foreign corporation, or the receiver, referee in
 6 bankruptcy, trustee, or successor of one of these, or the legal representative of a
 7 deceased person, that has or subsequent to January 1, 1937, had one or more
 8 individuals performing service for it within the state; an individual performing
 9 services inside the state for an employing unit that maintains two or more separate
 10 establishments inside the state is considered as employed by a single employing unit
 11 for the purposes of this chapter; notwithstanding any provision in this chapter, any
 12 employing unit that employs individuals whose services must be covered by the
 13 unemployment insurance laws of this state after December 31, 1971, as a condition of
 14 approval of the unemployment insurance laws of this state under 26 U.S.C. 3304(a)
 15 (Internal Revenue Code of 1954), as amended, will be considered an employer as to
 16 those individuals and is subject to contributions on all wages paid after December 31,
 17 1971, or reimbursement payments to cover benefits paid based on services performed
 18 after December 31, 1971, depending on the applicable law;

19 * **Sec. 11.** AS 23.20.520 is amended by adding a new paragraph to read:

20 (21) "municipal agency" means an agency of a municipality of the
 21 state; in this paragraph, "municipality" has the meaning given in AS 29.71.800.

22 * **Sec. 12.** AS 23.20.526(a)(16) is amended to read:

23 (16) service performed **as a student nurse in the employ of a**
 24 **hospital or a nurses' training school by an individual who is enrolled and is**
 25 **regularly attending classes in a nurses' training school chartered or approved in**
 26 **accordance with the laws of this state, and service performed as an intern in the**
 27 **employ of a hospital by an individual who has completed a four-year course in a**
 28 **medical school chartered or approved in accordance with the laws of this state**
 29 [AFTER DECEMBER 31, 1971, BY NURSES, TECHNICIANS, AND OTHER
 30 PROFESSIONAL EMPLOYEES OF HOSPITALS NO PART OF THE NET
 31 EARNINGS OF WHICH INURES TO THE BENEFIT OF A PRIVATE

1 SHAREHOLDER OR INDIVIDUAL], unless the service is required to be covered
2 under the Federal Unemployment Tax Act;

3 * **Sec. 13.** AS 23.20.530(b) is amended by adding a new paragraph to read:

4 (13) the amount of payment made, or benefit furnished, by the
5 employer under a plan to provide educational assistance to or for the benefit of an
6 employee if, at the time of the payment or the furnishing, it is reasonable to believe
7 that the employee will be able to exclude the payment or benefit from income under
8 26 U.S.C. 127(b).

9 * **Sec. 14.** AS 34.45.760(14) is amended to read:

10 (14) "property" means personal property, but does not include property
11 covered by

12 (A) AS 14.57.200 - 14.57.290;

13 (B) AS 23.20;

14 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 CONDITIONAL EFFECT OF SECTION 10 OF THIS ACT. AS 23.20.520(10), as
17 repealed and reenacted by sec. 10 of this Act, takes effect only if sec. 33, ch. 122, SLA 1977,
18 takes effect.

19 * **Sec. 16.** If sec. 10 of this Act takes effect, it takes effect on the effective date set out in
20 sec. 34, ch. 122, SLA 1977.

21 * **Sec. 17.** Except as provided in sec. 16 of this Act, this Act takes effect immediately under
22 AS 01.10.070(c).