

**SENATE BILL NO. 1002**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SPECIAL SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 6/22/04

Referred: Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act providing for a special deposit for workers' compensation insurers; relating to  
2 assigned risk pools and workers' compensation insurers; relating to the board of  
3 governors of the Alaska Insurance Guaranty Association; stating the intent of the  
4 legislature, and setting out limitations, concerning the interpretation, construction, and  
5 implementation of workers' compensation laws; relating to restructuring the Alaska  
6 workers' compensation system; eliminating the Alaska Workers' Compensation Board;  
7 establishing a division of workers' compensation within the Department of Labor and  
8 Workforce Development and assigning certain Alaska Workers' Compensation Board  
9 functions to the division and the Department of Labor and Workforce Development;  
10 establishing a Workers' Compensation Appeals Commission; assigning certain functions  
11 of the Alaska Workers' Compensation Board to the Workers' Compensation Appeals  
12 Commission and the office of administrative hearings; relating to agreements that

1 discharge workers' compensation liability; providing for administrative law judges in  
 2 workers' compensation proceedings; relating to workers' compensation awards; relating  
 3 to an employer's failure to insure and keep insured or provide security; providing for  
 4 appeals from compensation orders; relating to workers' compensation proceedings;  
 5 providing for supreme court jurisdiction of appeals from the Workers' Compensation  
 6 Appeals Commission; providing for a maximum amount for the cost-of-living  
 7 adjustment for workers' compensation benefits; providing for administrative penalties  
 8 for employers uninsured or without adequate security for workers' compensation;  
 9 relating to fraudulent acts or false or misleading statements in worker's compensation;  
 10 and providing for an effective date."

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

12 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
 13 to read:

14 LEGISLATIVE INTENT. It is the intent of the legislature by secs. 3 - 7 of this Act

15 (1) to reform the workers' compensation system in Alaska to ensure the  
 16 continued payment of benefits in the event of an insurer insolvency;

17 (2) to give parties affected by the insolvency of a workers' compensation  
 18 insurer a voice on the board of governors of the Alaska Insurance Guaranty Association; and

19 (3) to reduce the overall costs of workers' compensation premiums to  
 20 employers.

21 \* **Sec. 2.** AS 08.18.101 is amended to read:

22 **Sec. 08.18.101. Insurance required.** Each applicant, at the time of applying  
 23 for registration or upon renewal of registration, shall file with the commissioner  
 24 satisfactory evidence that the applicant has in effect

25 (1) to the extent required under AS 23.30, workers' compensation  
 26 insurance that is purchased from a private insurer who is admitted to do business in the  
 27 state and that shows coverage in this state, appropriate employee classifications, and

1 rates applicable in this state, or a valid workers' compensation self-insurance  
 2 certificate issued by the **director of the division of workers' compensation**  
 3 **[ALASKA WORKERS' COMPENSATION BOARD]**; and

4 (2) public liability and property damage insurance covering the  
 5 applicant's contracting operations in this state in the sum of not less than \$20,000 for  
 6 damage to property, \$50,000 for injury, including death, to any one person, and  
 7 \$100,000 for injury, including death, to more than one person.

8 \* **Sec. 3.** AS 21.09.090 is amended by adding a new subsection to read:

9 (e) In addition to any other deposit required under this section, an insurer who  
 10 transacts workers' compensation insurance in this state shall maintain in the state a  
 11 special deposit of cash or securities eligible for deposit under AS 21.24.030 in an  
 12 amount not less than the basic capital or surplus required of an insurer under  
 13 AS 21.09.070 for the protection of persons in this state covered under workers'  
 14 compensation insurance. The insurer shall maintain the deposit under this subsection  
 15 in this state as long as there is any outstanding liability of the insurer for workers'  
 16 compensation in this state. If the insurer is unable to pay workers' compensation  
 17 claims due under AS 23.30 because the insurer is an insolvent insurer, upon the  
 18 director's request, the deposit is immediately available to the Alaska Insurance  
 19 Guaranty Association (AS 21.80) for continuation of claims benefits to eligible  
 20 workers. In this subsection, "insolvent insurer" has the meaning given in  
 21 AS 21.80.180.

22 \* **Sec. 4.** AS 21.09 is amended by adding a new section to read:

23 **Sec. 21.09.095. Deposit requirement for workers' compensation insurers.**

24 (a) An insurer of workers' compensation shall maintain with an in-state bank  
 25 approved by the director a separate deposit equal to the insurer's assumed Alaska  
 26 workers' compensation assigned risk pool loss reserves, as determined by the  
 27 designated plan administrator, for all years and ceded under the joint and several quota  
 28 share reinsurance agreements through which workers' compensation insurers reinsure  
 29 risks in the Alaska workers' compensation assigned risk pool. The deposit shall be  
 30 maintained as secured collateral for the benefit of other insurers in their capacity as  
 31 joint and several reinsurers of the Alaska workers' compensation assigned risk pool.

1 (b) Upon becoming an insolvent insurer or upon otherwise failing to timely  
 2 satisfy its Alaska workers' compensation assigned risk pool obligations, the insurer's  
 3 deposit under this section shall be retained as secured collateral under the control of  
 4 the director. The director shall make funds from the deposit available to the  
 5 designated plan administrator as needed to fund the insurer's obligations to the Alaska  
 6 workers' compensation assigned risk pool.

7 (c) The deposit required under this section must consist of cash and  
 8 investment assets approved by the director under the regulatory authority in  
 9 AS 21.21.420.

10 (d) In this section,

11 (1) "Alaska workers' compensation assigned risk pool" means the  
 12 assigned risk pool established for workers' compensation under AS 21.39.155;

13 (2) "designated plan administrator" means the person appointed by the  
 14 director to operate the workers' compensation assigned risk pool;

15 (3) "insolvent insurer" has the meaning given in AS 21.80.180.

16 \* **Sec. 5.** AS 21.24.130(d) is amended to read:

17 (d) **Except as provided in AS 21.09.090(e), if** [IF] the insurer is subject to  
 18 delinquency proceedings as defined in AS 21.78, upon the order of a court of  
 19 competent jurisdiction, the director shall yield the assets and securities held on deposit  
 20 to the receiver, conservator, rehabilitator, or liquidator of the insurer, or to any other  
 21 properly designated official or officials who succeed to the management and control of  
 22 the insurer's assets.

23 \* **Sec. 6.** AS 21.39.155 is amended by adding a new subsection to read:

24 (d) Rates for the workers' compensation assigned risk pool shall be established  
 25 and maintained at a level that will ensure, to the greatest extent practicable, that the  
 26 workers' compensation assigned risk pool will operate on a self-funding financial  
 27 basis. For purposes of this subsection, "operate on a self-funding financial basis"  
 28 means that the workers' compensation assigned risk pool shall charge rates based upon  
 29 a combination of voluntary loss costs, administrative expenses, servicing carrier  
 30 allowances, catastrophe and other reinsurance expenses, contingencies, and all other  
 31 factors in AS 21.39.030 that are approved by the director, so as to be self-funding

1 during any consecutive three-year period, on a moving average basis.

2 \* **Sec. 7.** AS 21.80.050 is repealed and reenacted to read:

3 **Sec. 21.80.050. Board of governors.** (a) The board of governors of the  
4 association consists of nine members appointed by the director. Terms are established  
5 in the plan of operation of the association. Membership of the board of governors  
6 consists of

7 (1) four members who represent member insurers;

8 (2) two members who represent employers;

9 (3) two members who represent labor;

10 (4) one member who represents licensees.

11 (b) Members appointed shall serve staggered three-year terms and may be  
12 removed for cause by the director.

13 (c) Within 90 days after a vacancy occurs on the board, the director shall fill  
14 the vacancy for the remaining period of the term of the vacating member.

15 (d) In appointing a member insurer to the board, the director shall consider,  
16 among other things, whether all member insurers are fairly represented.

17 (e) Members of the board may be reimbursed from the assets of the  
18 association for expenses incurred by them as members of the board of governors.

19 \* **Sec. 8.** AS 23.05.067(a) is amended to read:

20 (a) Each insurer providing workers' compensation insurance and each  
21 employer who is self-insured or uninsured for purposes of AS 23.30 in this state shall  
22 pay an annual service fee to the department for the administrative expenses of the state  
23 for workers' safety programs under AS 18.60 and the workers' compensation program  
24 under AS 23.30 as follows:

25 (1) for each employer,

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

29 (B) the service fee is 2.9 percent of all payments reported to the  
30 **director of the division of workers' compensation** [ALASKA WORKERS'  
31 COMPENSATION BOARD] under AS 23.30.155(m) or (n), except second

1 injury fund payments; and

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

7 \* **Sec. 9.** AS 23.05.067(e) is amended to read:

8 (e) Annual service fees and civil penalties collected under this section **and**  
9 **fees collected by the Workers' Compensation Appeals Commission** shall be  
10 deposited in the workers' safety and compensation administration account in the state  
11 treasury. Under AS 37.05.146(c), the **Workers' Compensation Appeals**  
12 **Commission fees,** service fees, and civil penalties shall be accounted for separately,  
13 and appropriations from the account are not made from the unrestricted general fund.  
14 The legislature may appropriate money from the account for expenditures by the  
15 department for necessary costs incurred by the department in the administration of the  
16 workers' safety programs contained in AS 18.60 and of the Alaska Workers'  
17 Compensation Act contained in AS 23.30. **The legislature may appropriate money**  
18 **from the account for expenditures by the department for necessary costs**  
19 **incurred by the Workers' Compensation Appeals Commission, and by the**  
20 **department or the office of administrative hearings in the Department of**  
21 **Administration (AS 44.64.010) for the administration of adjudication of claims**  
22 **and petitions arising under AS 23.30.** Nothing in this subsection creates a dedicated  
23 fund or dedicates the money in the account for a specific purpose. Money deposited in  
24 the account does not lapse at the end of a fiscal year unless otherwise provided by an  
25 appropriation.

26 \* **Sec. 10.** AS 23.30 is amended by adding a new section to read:

27 **Sec. 23.30.001. Intent of the legislature and construction of chapter.** It is  
28 the intent of the legislature that

29 (1) this chapter be interpreted so as to ensure the quick, efficient, fair,  
30 and predictable delivery of indemnity and medical benefits to injured workers at a  
31 reasonable cost to the employers who are subject to the provisions of this chapter;

1 (2) workers' compensation cases shall be decided on their merits  
2 except where otherwise provided by law;

3 (3) this chapter may not be construed by the courts in favor of a party;

4 (4) hearings in workers' compensation cases shall be impartial and fair  
5 to all parties and that all parties shall be afforded due process and an opportunity to be  
6 heard and for their arguments and evidence to be fairly considered;

7 (5) evidence shall be carefully and rationally examined and, except in  
8 the application of the presumption in AS 23.30.120(a), doubt as to the substance of  
9 evidence may not be interpreted in favor of one party or the other.

10 \* **Sec. 11.** AS 23.30.005 is repealed and reenacted to read:

11 **Sec. 23.30.005. Alaska workers' compensation division; duties of**  
12 **department; regulations; notice of revocation of self-insurance.** (a) There is  
13 established in the Department of Labor and Workforce Development a division of  
14 workers' compensation. The commissioner shall appoint the director of the division.  
15 The director shall have at least three years' experience in the field of workers'  
16 compensation.

17 (b) The director is responsible to the commissioner for the execution of the  
18 duties and responsibilities imposed by this chapter and the regulations adopted under  
19 this chapter. The director shall

20 (1) direct and supervise the administrative, technical, investigative, and  
21 enforcement activities of the division of workers' compensation;

22 (2) develop, in cooperation with others, programs for the improvement  
23 of the workers' compensation system;

24 (3) prepare regulations, consistent with the responsibilities of the  
25 division under this chapter, that are required to implement and administer this chapter  
26 for adoption by the department;

27 (4) notify employees, employers, physicians, and rehabilitation  
28 specialists of their rights and obligations under this chapter;

29 (5) perform other lawful acts necessary to carry out the purposes of  
30 this chapter.

31 (c) The department shall adopt rules for the periodic selection, retention, and

1 removal of rehabilitation specialists and physicians under AS 23.30.041 and  
2 23.30.095.

3 (d) The department may adopt regulations concerning the medical care  
4 provided for in this chapter and, except as committed to the authority of the Workers'  
5 Compensation Appeals Commission, may adopt regulations to carry out the provisions  
6 of this chapter.

7 (e) The director shall notify the contracting agency of the state or of a political  
8 subdivision of the state when it revokes the self-insurance certificate of an employer  
9 holding a contract with the state or a political subdivision of the state.

10 \* **Sec. 12.** AS 23.30 is amended by adding new sections to read:

11 **Sec. 23.30.007. Workers' Compensation Appeals Commission.** (a) There  
12 is established in the Department of Labor and Workforce Development the Workers'  
13 Compensation Appeals Commission. The commission has jurisdiction to hear appeals  
14 from final decisions and orders of administrative law judges and the director under this  
15 chapter. Jurisdiction of the commission is limited to administrative appeals arising  
16 under this chapter.

17 (b) The commission consists of five members appointed by the governor and  
18 confirmed by a majority of the members of the legislature in joint session. The  
19 members shall be appointed as follows:

20 (1) a member appointed as chair who meets the requirements of (c)(2)  
21 of this section;

22 (2) two members who, because of their employment or affiliations,  
23 may be classified as a representative of employees covered by this chapter;

24 (3) two members who, because of their employment or affiliations,  
25 may be classified as a representative of employers covered by this chapter.

26 (c) To be eligible for appointment under this section

27 (1) the member must

28 (A) be a citizen of the United States;

29 (B) be a resident of the state for the five years preceding the  
30 appointment; and

31 (C) have not been convicted of either a

1 (i) felony; or

2 (ii) misdemeanor related to workers' compensation;

3 (2) the chair must

4 (A) meet the criteria specified in (1) of this subsection;

5 (B) be licensed to practice law in this state and be a member in  
6 good standing with the Alaska Bar Association; and

7 (C) have engaged in the active practice of law for at least five  
8 years with experience in workers' compensation in this state.

9 (d) A member may act and receive compensation under this section from the  
10 date of appointment until confirmation or rejection by the legislature.

11 (e) The term of service on the commission is five years. A member may be  
12 reappointed so long as the reappointment complies with the provisions of this section.

13 (f) The chair of the commission is in the exempt service under AS 39.25.110  
14 and shall receive a monthly salary that is not less than Step A nor more than Step F of  
15 Range 27 of the salary schedule in AS 39.27.011(a) for Anchorage, Alaska.

16 (g) A vacancy arising in the commission shall be filled by appointment by the  
17 governor and confirmed by a majority of the members of the legislature in joint  
18 session. Except as provided in AS 39.05.080(4), an appointee selected to fill a  
19 vacancy shall hold office for the unexpired term of the member whose vacancy is  
20 filled. A vacancy in the commission does not impair the authority of a quorum of  
21 members to exercise all the powers and perform all the duties of the commission.

22 (h) An appeal to the commission shall be heard and decided by a three-  
23 member panel of the commission. An appeal panel shall consist of the chair of the  
24 commission and two members of the commission assigned by the chair, one member  
25 classified as representing employees, and one member classified as representing  
26 employers. At other meetings to conduct commission business, the number of  
27 commission members classified as representing employees must equal the number of  
28 commission members classified as representing employers. The chair of the  
29 commission and two representative members of the commission, one classified as  
30 representing employees and one classified as representing employers, constitutes a  
31 quorum.

1 (i) A member of the commission may be removed from office by the governor  
 2 for good cause. To be removed for cause, a member of the commission shall be given  
 3 a copy of the charges and afforded an opportunity to be heard in person or by counsel  
 4 in the member's own defense upon not less than 10 days' notice. If the member is  
 5 removed for cause, the governor shall file with the lieutenant governor a complete  
 6 statement of all charges made against the member, the governor's findings on the  
 7 charges, and the record of any proceedings. In this subsection, "good cause" includes

- 8 (1) misconduct in office or violation of AS 39.52;
- 9 (2) conviction of a felony;
- 10 (3) conviction of a misdemeanor related to workers' compensation;
- 11 (4) inability to serve, neglect of duty, incompetence, unjustified failure  
 12 to handle the caseload assigned, or similar nonfeasance of office; and
- 13 (5) failure to continue to meet the requirements of this section relating  
 14 to qualification for office.

15 (j) Representative members are entitled to compensation in the amount of  
 16 \$200 a day for each day spent in actual hearing of appeals or on authorized official  
 17 business incidental to their duties, and to transportation and per diem as provided by  
 18 law. Compensation shall be paid pro rata for each portion of a day spent in actual  
 19 hearing of appeals or on authorized official business.

20 (k) A member of the commission may not hear an appeal under this chapter if

- 21 (1) a party is an employee or was, in the past seven years, an employee  
 22 of the commission member or of a business that employs the commission member;  
 23 this paragraph does not apply to the chair of the commission when the State of Alaska  
 24 is or was the employer of a party;
- 25 (2) a party is a member or was, in the past seven years, a member of  
 26 the same union or employee association as the commission member;
- 27 (3) a party has a contractual relationship with the commission member,  
 28 a business that employs the commission member, or a union or employee association  
 29 of which the commission member is a member;
- 30 (4) the commission member is unable to be fair, impartial, and  
 31 unbiased toward the appeal participants; or

1 (5) participation in the appeal is a violation of AS 39.52.

2 (l) If the chair of the commission is unable to hear an appeal for reasons of  
3 absence or illness in excess of 10 days, or for reasons set out in (k) of this section, the  
4 commissioner of the department shall appoint a person who meets the qualifications of  
5 this section to serve as chair to hear the appeal as chair pro tem. The person shall  
6 receive the compensation provided in (j) of this section. Appointment of a chair pro  
7 tem does not require legislative confirmation.

8 (m) Each member of the commission, before entering upon the duties of  
9 office, shall take and subscribe to the oath prescribed for principal officers of the state.

10 (n) The offices of the commission shall be physically separate from the offices  
11 of the division.

12 **Sec. 23.30.008. Powers and duties of the commission.** (a) The commission  
13 shall be the exclusive and final authority for the hearing and determination of all  
14 questions of law and fact arising under this chapter in those matters that have been  
15 appealed to the commission, except for an appeal to the Alaska Supreme Court. The  
16 commission may not have jurisdiction in any case that does not arise under this  
17 chapter or in any criminal case. On any matter taken to the commission, the decision  
18 of the commission is final and conclusive, unless appealed to the Alaska Supreme  
19 Court, and shall stand in lieu of the order of the director or the administrative law  
20 judge from which the appeal was taken. Unless reversed by the Alaska Supreme  
21 Court, decisions of the commission shall have the force of legal precedent.

22 (b) The commission, in its administrative capacity, shall maintain, index, and  
23 make available for public inspection the final administrative decisions and orders of  
24 the commission and of the director and administrative law judges. To promote  
25 consistency among legal determinations, the chair of the commission may review and  
26 circulate among the other members of the relevant commission appeal panel the drafts  
27 of the panel's formal decisions and decisions upon reconsideration. The drafts are  
28 confidential documents and are not subject to disclosure.

29 (c) The chair of the commission shall draft and propose, and the commission  
30 in its administrative capacity may adopt, regulations implementing the commission's  
31 authority and duties under this chapter, including rules of procedure and evidence for

1 proceedings before the commission and, after consulting with the chief administrative  
 2 law judge, in workers' compensation proceedings under AS 23.30.080, 23.30.090, and  
 3 23.30.110, and for the adjudication of all claims and petitions and appeals under this  
 4 chapter. The provisions of AS 44.62 (Administrative Procedure Act) apply to the  
 5 adoption of regulations by the commission.

6 (d) In an appeal, the commission shall award a successful party reasonable  
 7 costs and, if the party is represented by an attorney, attorney fees that the commission  
 8 determines to be fully compensatory and reasonable. However, the commission may  
 9 not make an award of attorney fees against an injured worker unless the commission  
 10 finds that the worker's position on appeal was frivolous or unreasonable or the appeal  
 11 was taken in bad faith.

12 (e) The commission, in its administrative capacity, may adopt and alter an  
 13 official seal and do all things necessary, convenient, or desirable to carry out the  
 14 powers expressly granted or necessarily implied in this chapter.

15 **Sec. 23.30.009. Powers and duties of the chair of the commission.** (a) The  
 16 chair of the commission shall exercise general supervision over the office of the  
 17 commission and over appeals, and shall direct the administrative functions of the  
 18 commission. The chair of the commission shall serve as the executive officer of the  
 19 commission and shall have authority in all administrative matters relating to the  
 20 members. The chair may

21 (1) employ and supervise commission staff and appoint a commission  
 22 clerk;

23 (2) establish and implement a time management system for the  
 24 commission members and staff and manage the calendar of appeals;

25 (3) assign the work of the commission members and staff so that  
 26 appeals are resolved as expeditiously and competently as possible;

27 (4) receive petitions and claims and other materials for hearings  
 28 conducted by the office of administrative hearings (AS 44.64.010);

29 (5) advise and cooperate with the chief administrative law judge of the  
 30 office of administrative hearings (AS 44.64.010) to develop appropriate procedures for  
 31 maintenance and transfer of hearing files and the preservation and transfer of records

1 on appeal; and

2 (6) prepare an annual budget of the commission.

3 (b) The chair of the commission shall preside over hearings and arguments on  
4 appeals. The chair of the commission shall ensure that all functions of the commission  
5 are performed with due regard for the rights of all parties and consistent with the  
6 orderly and prompt resolution of appeals. The chair of the commission shall rule on  
7 questions of procedure and advise the representative members of the commission on  
8 matters of law.

9 (c) The chair of the commission shall, not later than March 15 of each year,  
10 make available to the public and file with the lieutenant governor, a report regarding  
11 the commission, including data regarding time periods between initial receipt and final  
12 decisions on appeals.

13 (d) The chair of the commission shall devote full time to the duties of the chair  
14 of the commission and may not engage in any other employment or business. The  
15 chair of the commission may not hold any other office or position under the United  
16 States, this state, any municipality or political subdivision of this state, or any tribal  
17 government or corporation. The chair of the commission may not hold office or  
18 position in a partisan political organization or party.

19 \* **Sec. 13.** AS 23.30.011(c) is amended to read:

20 (c) If an employee is entitled to the benefits of this chapter by reason of an  
21 injury sustained in this state in employment by an employer who is domiciled in  
22 another state and who has not secured the payment of compensation as required by  
23 this chapter, the employer or the employer's carrier may file with the **division**  
24 [BOARD] a certificate, issued by the commission or agency of the other state having  
25 jurisdiction over workers' compensation claims, certifying that the employer has  
26 secured the payment of compensation under the workers' compensation law of the  
27 other state and that, with respect to that injury, the employee is entitled to the benefits  
28 provided under that law. In that event,

29 (1) the filing of the certificate shall constitute an appointment by the  
30 employer or the employer's carrier of the **director** [BOARD] as the employer's agent  
31 for acceptance of the service of process in a proceeding brought by the employee or

1 the employee's dependents to enforce the employee's or their rights under this chapter  
2 on account of the injury;

3 (2) the **director** [BOARD] shall send to the employer or carrier, by  
4 registered or certified mail to the address shown on the certificate, a true copy of any  
5 notice of claim or other process served on the director by the employee or the  
6 employee's dependents in any proceeding brought to enforce the employee's or their  
7 rights under this chapter;

8 (3) if the employer is a qualified self-insurer under the workers'  
9 compensation law of the other state, the employer, upon submission of evidence  
10 satisfactory to the **director** [BOARD] of the employer's ability to meet the employer's  
11 liability to the employee under this chapter, shall be considered to be a qualified self-  
12 insurer under this chapter;

13 (4) if the employer's liability under the workers' compensation law of  
14 another state is insured, the employer's carrier, as to the employee or the employee's  
15 dependents only, shall be considered to be an insurer authorized to write insurance  
16 under and be subject to this chapter; however, unless its contract with the employer  
17 requires it to pay an amount equivalent to the compensation benefits provided by this  
18 chapter, its liability for income benefits or medical and related benefits may not  
19 exceed the amounts of the benefits for which the insurer would have been liable under  
20 the workers' compensation law of the other state;

21 (5) if the amount for which the employer's insurance is liable under (3)  
22 and (4) of this subsection is less than the total of the compensation benefits to which  
23 the employee is entitled under this chapter, the **director** [BOARD] may, if **the**  
24 **director** [IT] considers it necessary, require the employer to file security satisfactory  
25 to the **director** [BOARD] to secure the payment of benefits due the employee or the  
26 employee's dependents under this chapter; and

27 (6) upon compliance with the preceding requirements of this  
28 subsection, the employer, as to the employee only, shall be considered to have secured  
29 the payment of compensation under this chapter.

30 \* **Sec. 14.** AS 23.30.012 is amended to read:

31 **Sec. 23.30.012. Agreements in regard to claims. (a)** At any time after

1 death, or after 30 days subsequent to the date of the injury, the employer and the  
 2 employee or the beneficiary or beneficiaries, as the case may be, have the right to  
 3 reach an agreement in regard to a claim for injury or death under this chapter [IN  
 4 ACCORDANCE WITH THE APPLICABLE SCHEDULE IN THIS CHAPTER], but  
 5 a memorandum of the agreement in a form prescribed by the **director** [BOARD] shall  
 6 be filed with the **division** [BOARD]. Otherwise, the agreement is void for any  
 7 purpose. **Except as provided in (b) of this section, an agreement filed with the**  
 8 **division discharges the liability of the employer for the compensation,**  
 9 **notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245, and is**  
 10 **enforceable as a compensation order.**

11 **(b) If the claimant or beneficiary is not represented by an attorney**  
 12 **licensed to practice in this state, or the beneficiary is a minor, the division shall**  
 13 **request review of the agreement by an administrative law judge.** If approved by  
 14 **an administrative law judge** [THE BOARD], the agreement is enforceable the same  
 15 as an order or award of **an administrative law judge** [THE BOARD] and discharges  
 16 the liability of the employer for the compensation notwithstanding the provisions of  
 17 AS 23.30.130, 23.30.160, and 23.30.245. The agreement shall be approved by **an**  
 18 **administrative law judge** [THE BOARD] only when the terms conform to the  
 19 provisions of this chapter and, if it involves or is likely to involve permanent  
 20 disability, **an administrative law judge** [THE BOARD] may require an impartial  
 21 medical examination and a hearing in order to determine whether or not to approve the  
 22 agreement. **A** [THE BOARD MAY APPROVE] lump-sum **settlement may be**  
 23 **approved** [SETTLEMENTS] when it appears to be to the best interest of the  
 24 employee or beneficiary or beneficiaries.

25 \* **Sec. 15.** AS 23.30.015(b) is amended to read:

26 (b) Acceptance of compensation under [AN AWARD IN] a compensation  
 27 order filed **with the office of the commission** [BY THE BOARD] operates as an  
 28 assignment to the employer of all rights of the person entitled to compensation and the  
 29 personal representative of a deceased employee to recover damages from the third  
 30 person unless the person or representative entitled to compensation commences an  
 31 action against the third person within one year after an **order** [AWARD].

1 \* **Sec. 16.** AS 23.30.015(e) is amended to read:

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

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

5 (A) the expenses incurred by the employer with respect to the  
6 action or compromise, including [A] reasonable attorney **fees** [FEE]  
7 determined by **an administrative law judge** [THE BOARD];

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

10 (C) all amounts paid as compensation and **second injury**  
11 [SECOND-INJURY] fund payments, and, if the employer is self-insured or  
12 uninsured, all service fees paid under AS 23.05.067;

13 (D) the present value of all amounts payable later as  
14 compensation, computed from a schedule prepared by the **director** [BOARD];  
15 and the present value of the **estimated** cost of all benefits to be furnished later  
16 under AS 23.30.095 [AS ESTIMATED BY THE BOARD]; the amounts so  
17 computed and estimated **shall** [TO] be retained by the employer as a trust fund  
18 to pay compensation and the cost of benefits as they become due and to pay  
19 any finally remaining excess sum to the person entitled to compensation or to  
20 the representative; and

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

23 \* **Sec. 17.** AS 23.30.015(j) is amended to read:

24 (j) Notice of the commencement of an action against a third party shall be  
25 given to the **division** [BOARD] and to all interested parties within 30 days. **If a**  
26 **request for a hearing under AS 23.30.110 has been filed, notice of the**  
27 **commencement of the action shall also be filed with the commission.**

28 \* **Sec. 18.** AS 23.30.025(a) is amended to read:

29 (a) An insurer may not enter into or issue a policy of insurance under this  
30 chapter until its policy form has been submitted to and approved by the director of the  
31 division of insurance. The director of the division of insurance may not approve the

1 policy form of an insurance company until the company files with it the certificate of  
 2 the director of the division of insurance showing that the company is authorized to  
 3 transact the business of workers' compensation insurance in the state. The filing of a  
 4 policy form by an insurance company with the **division of workers' compensation**  
 5 [BOARD] for approval constitutes, on the part of the company, a conclusive and  
 6 unqualified acceptance of the provisions of this chapter [,] and an agreement by it to  
 7 be bound by them.

8 \* **Sec. 19.** AS 23.30.030(5) is amended to read:

9 (5) A termination of the policy by cancellation is not effective as to the  
 10 employees of the insured employer covered by it until 20 days after written notice of  
 11 the termination has been received by the **division** [BOARD]. If the employer has a  
 12 contract with the state or a home rule or other political subdivision of the state, and the  
 13 employer's policy is cancelled due to nonpayment of a premium, the termination of the  
 14 policy is not effective as to the employees of the insured employer covered by it until  
 15 20 days after written notice of the termination has been received by the contracting  
 16 agency, and the agency has the option of continuing the payments on behalf of the  
 17 employer in order to keep the policy in force. If, however, the employer has secured  
 18 insurance with another insurance carrier, cancellation is effective as of the date of the  
 19 new coverage.

20 \* **Sec. 20.** AS 23.30.030(6) is amended to read:

21 (6) All claims for compensation, death benefits, physician's fees,  
 22 nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices,  
 23 transportation charges to the nearest point where adequate medical facilities are  
 24 available, and burial expenses [,] may be made directly against either the employer or  
 25 the insurer, or both, and the order or award of **an administrative law judge** [THE  
 26 BOARD] may be made against either the employer or the insurer or both.

27 \* **Sec. 21.** AS 23.30.040(a) is amended to read:

28 (a) There is created a second injury fund, administered by the **director**  
 29 [COMMISSIONER]. Money in the second injury fund may only be paid for the  
 30 benefit of those persons entitled to payment of benefits from the second injury fund  
 31 under this chapter. Payments from the second injury fund must be made by the

1            **director** [COMMISSIONER] in accordance with the orders [AND AWARDS] of **an**  
 2            **administrative law judge** [THE BOARD].

3            \* **Sec. 22.** AS 23.30.040(d) is amended to read:

4                    (d) The **director** [BOARD] may refund a payment made into the second  
 5                    injury fund if the employer or insurance carrier shows that it made the payment by  
 6                    mistake or inadvertence, or if it shows there existed at the time of the death of the  
 7                    employee a beneficiary entitled to benefits under AS 23.30.215.

8            \* **Sec. 23.** AS 23.30.041(a) is amended to read:

9                    (a) The **director** [BOARD] shall select and employ a reemployment benefits  
 10                    administrator. The **director** [BOARD] may authorize the administrator to select and  
 11                    employ additional staff. The administrator is in the partially exempt service under  
 12                    AS 39.25.120.

13            \* **Sec. 24.** AS 23.30.041(b) is amended to read:

14                    (b) The administrator shall

15                            (1) enforce regulations adopted by the **department** [BOARD] to  
 16                    implement this section;

17                            (2) recommend regulations for adoption by the **department** [BOARD]  
 18                    that establish performance and reporting criteria for rehabilitation specialists;

19                            (3) enforce the quality and effectiveness of reemployment benefits  
 20                    provided for under this section;

21                            (4) review on an annual basis the performance of rehabilitation  
 22                    specialists to determine continued eligibility for delivery of rehabilitation services;

23                            (5) submit to the department, on or before May 1 of each year, a report  
 24                    of reemployment benefits provided under this section for the previous calendar year;  
 25                    the report must include a general section, sections related to each rehabilitation  
 26                    specialist employed under this section, and a statistical summary of all rehabilitation  
 27                    cases, including

28                                    (A) the estimated and actual cost of each active rehabilitation  
 29                    plan;

30                                    (B) the estimated and actual time of each rehabilitation plan;

31                                    (C) a status report on all individuals completing or terminating

1 a reemployment benefits program including a return to work date;

2 (D) the cost of reemployment benefits;

3 (6) maintain a list of rehabilitation specialists who meet the  
4 qualifications established under this section;

5 (7) promote awareness among physicians, adjusters, injured workers,  
6 employers, employees, attorneys, training providers, and rehabilitation specialists of  
7 the reemployment program established in this subsection.

8 \* **Sec. 25.** AS 23.30.041(d) is amended to read:

9 (d) Within 30 days after the referral by the administrator, the rehabilitation  
10 specialist shall perform the eligibility evaluation and issue a report of findings. The  
11 administrator may grant up to an additional 30 days for performance of the eligibility  
12 evaluation upon notification of unusual and extenuating circumstances and the  
13 rehabilitation specialist's request. Within 14 days after receipt of the report from the  
14 rehabilitation specialist, the administrator shall notify the parties of the employee's  
15 eligibility for reemployment preparation benefits. Within 10 days after the decision,  
16 either party may seek review of the decision by requesting a hearing under  
17 AS 23.30.110. The hearing shall be held within 30 days after it is requested. The  
18 **administrative law judge** [BOARD] shall uphold the decision of the administrator  
19 except for abuse of discretion on the administrator's part.

20 \* **Sec. 26.** AS 23.30.041(h) is amended to read:

21 (h) Within 90 days after the rehabilitation specialist's selection under (g) of  
22 this section, the reemployment plan must be formulated and approved. The  
23 reemployment plan must require continuous participation by the employee and must  
24 maximize the usage of the employee's transferable skills. The reemployment plan  
25 must include at least the following:

26 (1) a determination of the occupational goal in the labor market;

27 (2) an inventory of the employee's technical skills, transferable skills,  
28 physical and intellectual capacities, academic achievement, emotional condition, and  
29 family support;

30 (3) a plan to acquire the occupational skills to be employable;

31 (4) the cost estimate of the reemployment plan, including provider

1 fees; and the cost of tuition, books, tools [,] and supplies, transportation, temporary  
2 lodging, or job modification devices;

3 (5) the estimated length of time that the plan will take;

4 (6) the date that the plan will commence;

5 (7) the estimated time of medical stability as predicted by a treating  
6 physician or by a physician who has examined the employee at the request of the  
7 employer or the **director** [BOARD], or by referral of the treating physician;

8 (8) a detailed description and plan schedule;

9 (9) a finding by the rehabilitation specialist that the inventory under (2)  
10 of this subsection indicates that the employee can be reasonably expected to  
11 satisfactorily complete the plan and perform in a new occupation within the time and  
12 cost limitations of the plan; and

13 (10) a provision requiring that, after a person has been assigned to  
14 perform medical management services for an injured employee, the person shall send  
15 written notice to the employee, the employer, and the employee's physician explaining  
16 in what capacity the person is employed, whom the person represents, and the scope of  
17 the services to be provided.

18 \* **Sec. 27.** AS 23.30.041(j) is amended to read:

19 (j) The employee, rehabilitation specialist, and the employer shall sign the  
20 reemployment benefits plan. If the employer and employee fail to agree on a  
21 reemployment plan, either party may submit a reemployment plan for approval to the  
22 administrator; the administrator shall approve or deny a plan within 14 days after the  
23 plan is submitted; within 10 days **after** [OF] the decision, either party may seek  
24 review of the decision by requesting a hearing under AS 23.30.110; **an**  
25 **administrative law judge** [THE BOARD] shall uphold the decision of the  
26 administrator unless evidence is submitted supporting an allegation of abuse of  
27 discretion on the part of the administrator; **an administrative law judge** [THE  
28 BOARD] shall render a decision within 30 days after completion of the hearing.

29 \* **Sec. 28.** AS 23.30.041(o) is amended to read:

30 (o) Upon the request of either party, the administrator shall decide whether the  
31 employee has not cooperated as provided under (n) of this section. A hearing before

1 the administrator shall be held within 30 days after it is requested. The administrator  
 2 shall issue a decision within 14 days after the hearing. Within 10 days after the  
 3 administrator files the decision, either party may seek review of the decision by  
 4 requesting a hearing under AS 23.30.110; **an administrative law judge** [THE  
 5 BOARD] shall uphold the decision of the administrator unless evidence is submitted  
 6 supporting an allegation of abuse of discretion on the part of the administrator; **an**  
 7 **administrative law judge** [THE BOARD] shall render a decision within 30 days after  
 8 completion of the hearing.

9 \* **Sec. 29.** AS 23.30.041(p) is amended to read:

10 (p) When the United States Department of Labor publishes a new edition,  
 11 revision, or replacement for the "Selected Characteristics of Occupations Defined in  
 12 the Revised Dictionary of Occupational Titles" referred to in (e) of this section, the  
 13 **director** [BOARD] shall, not later than 90 days after the last day of the month in  
 14 which the new edition, revision, or replacement standard is published, hold an open  
 15 meeting under AS 44.62.310 to select the **proposed** date on which the new edition,  
 16 revision, or replacement standard will be implemented to make all eligibility  
 17 determinations required under (e) of this section. The date selected by the  
 18 **department** [BOARD] for implementing the new edition, revision, or replacement  
 19 standard may not be later than 90 days after the last day of the month in which the new  
 20 edition, revision, or replacement standard is published. After the meeting, the  
 21 **director** [BOARD] shall issue a public notice announcing the date selected **by the**  
 22 **department**. The requirements of AS 44.62.010 - 44.62.300 do not apply to the  
 23 selection or announcement of the date under this subsection.

24 \* **Sec. 30.** AS 23.30.041(q) is amended to read:

25 (q) Notwithstanding AS 23.30.012, after medical stability has been determined  
 26 and a physician has predicted that the employee may have a permanent impairment  
 27 that may cause the employee to have permanent physical capacities that are less than  
 28 the physical demands of the employee's job at the time of injury, an employee may  
 29 waive any benefits or rights under this section, including an eligibility evaluation and  
 30 benefits related to a reemployment plan. To waive any benefits or rights under this  
 31 section, an employee must file a statement under oath with the **division** [BOARD] to

1 notify the parties of the waiver and to specify the scope of benefits or rights that the  
 2 employee seeks to waive. The statement must be on a form prescribed or approved by  
 3 the **director** [BOARD]. The **division** [BOARD] shall serve the notice of waiver on  
 4 all parties to the claim within 10 days after filing. The waiver is effective upon service  
 5 to the party. A waiver effective under this subsection discharges the liability of the  
 6 employer for the benefits or rights contained in this section. The waiver may not be  
 7 modified under AS 23.30.130.

8 \* **Sec. 31.** AS 23.30.045(d) is amended to read:

9 (d) A contract may not be awarded by the state or a home rule or other  
 10 political subdivision of the state unless the person to whom the contract is to be  
 11 awarded has submitted to the contracting agency proof, furnished by the insurance  
 12 carrier, of current coverage by workers' compensation insurance from an insurance  
 13 company or association authorized to transact the business of workers' compensation  
 14 insurance in this state or proof, furnished by the **division** [BOARD], of a current  
 15 certificate of self-insurance from the **director** [BOARD]. The person to whom the  
 16 contract is awarded shall keep the workers' compensation insurance policy in effect  
 17 during the life of the contract with the state or political subdivision. If the state or the  
 18 political subdivision of the state fails to obtain proof of coverage or self-insurance or  
 19 to protect itself under (e) of this section, and an employee of the contractor is injured  
 20 during the term of the contract, the state or the political subdivision is liable for  
 21 workers' compensation to the employee if the employee is unable to recover from the  
 22 employer because of the employer's lack of financial assets. The state or the political  
 23 subdivision is not liable, however, to the employee for workers' compensation if the  
 24 employee can recover from the employer under (a) and (b) of this section.

25 \* **Sec. 32.** AS 23.30.045(e) is amended to read:

26 (e) When a contracting agency of the state or a political subdivision receives  
 27 notice that the workers' compensation insurance policy of an employer to whom the  
 28 agency has awarded a contract has been cancelled due to nonpayment of a premium,  
 29 without being replaced by a comparable policy, the agency may either terminate the  
 30 contract with the employer or continue the premium payments on behalf of the  
 31 employer in order to keep the policy in force during the life of the agency's contract.

1 If the agency chooses to keep the policy in force, it may deduct its payments from the  
 2 contract price or bring an action against the employer to recover the amount of the  
 3 payments. When the contracting agency receives notice that the **director** [BOARD]  
 4 has revoked a certificate of self-insurance held by a person to whom a contract has  
 5 been awarded, the agency may terminate the contract. This subsection does not limit  
 6 the causes of action or remedies that the state or political subdivision may have against  
 7 the employer.

8 \* **Sec. 33.** AS 23.30.065 is amended to read:

9 **Sec. 23.30.065. Employer's record of injuries.** An employer shall keep a  
 10 record in respect of an injury to an employee. The record must contain the  
 11 information of disease, other disability, or death **with** [IN] respect to an injury that the  
 12 **division** [BOARD] requires, and must be available to inspection by the **division**  
 13 [BOARD] or by a state authority at the times and under the conditions that the  
 14 **department** [BOARD] prescribes by regulation.

15 \* **Sec. 34.** AS 23.30.070(a) is amended to read:

16 (a) Within 10 days from the date the employer has knowledge of an injury or  
 17 death or from the date the employer has knowledge of a disease or infection, alleged  
 18 by the employee or on behalf of the employee to have arisen out of and in the course  
 19 of the employment, the employer shall send to the **division** [BOARD] a report setting  
 20 out

21 (1) the name, address, and business of the employer;

22 (2) the name, address, and occupation of the employee;

23 (3) the cause and nature of the alleged injury or death;

24 (4) the year, month, day, and hour when and the particular locality  
 25 where the alleged injury or death occurred; and

26 (5) the other information that the **division** [BOARD] may require.

27 \* **Sec. 35.** AS 23.30.070(b) is amended to read:

28 (b) Additional reports **with** [IN] respect to the injury and to the condition of  
 29 the employee shall be sent by the employer to the **division** [BOARD] at the times and  
 30 in the manner that the **director** [BOARD] prescribes.

31 \* **Sec. 36.** AS 23.30.070(d) is amended to read:

1 (d) Mailing of the report and copy to the **division** [BOARD] in a stamped  
 2 envelope, within the time prescribed in (a) or (b) of this section, is compliance with  
 3 this section.

4 \* **Sec. 37.** AS 23.30.070(f) is amended to read:

5 (f) An employer who fails or refuses to send a report required of the employer  
 6 by this section or who fails or refuses to send the report required by (a) of this section  
 7 within the time required shall, if so required by **an administrative law judge after a**  
 8 **hearing** [THE BOARD], pay the employee or the legal representative of the employee  
 9 or other person entitled to compensation by reason of the employee's injury or death  
 10 an additional award equal to 20 percent of the amounts that were unpaid when due.  
 11 The award shall be against either the employer or the insurance carrier, or both.

12 \* **Sec. 38.** AS 23.30.075 is amended to read:

13 **Sec. 23.30.075. Employer's liability to pay.** (a) An employer under this  
 14 chapter, unless exempted, shall either insure and keep insured for the employer's  
 15 liability under this chapter in an insurance company or association duly authorized to  
 16 transact the business of workers' compensation insurance in this state, or shall furnish  
 17 the **division** [BOARD] satisfactory proof of the employer's financial ability to pay  
 18 directly the compensation provided for. If an employer elects to pay directly, the  
 19 **director** [BOARD] may, in **the director's** [ITS] discretion, require the deposit of an  
 20 acceptable security, indemnity, or bond to secure the payment of compensation  
 21 liabilities as they are incurred.

22 (b) If an employer fails to insure and keep insured employees subject to this  
 23 chapter or fails to obtain a certificate of self-insurance from the **division** [BOARD],  
 24 upon conviction, the court shall impose a fine of \$10,000 and may impose a sentence  
 25 of imprisonment for not more than one year. If an employer is a corporation, all  
 26 persons who, at the time of the injury or death, had authority to insure the corporation  
 27 or apply for a certificate of self-insurance, and the person actively in charge of the  
 28 business of the corporation shall be subject to the penalties prescribed in this  
 29 subsection and shall be personally, jointly, and severally liable together with the  
 30 corporation for the payment of all compensation or other benefits for which the  
 31 corporation is liable under this chapter if the corporation at that time is not insured or

1 qualified as a self-insurer.

2 \* **Sec. 39.** AS 23.30.080(d) is amended to read:

3 (d) If an employer fails to insure or provide security as required by  
 4 AS 23.30.075, the **director** [BOARD] may **petition to** issue a stop order prohibiting  
 5 the use of employee labor by the employer until the employer insures or provides  
 6 security as required by AS 23.30.075. The failure of an employer to file evidence of  
 7 compliance as required by AS 23.30.085 creates a rebuttable presumption that the  
 8 employer has failed to insure or provide security as required by AS 23.30.075. **The**  
 9 **petition shall be filed in the office of the commission. An administrative law**  
 10 **judge shall hear the petition within 20 days after service of the petition on the**  
 11 **employer. If the director presents evidence with the petition that hazards in the**  
 12 **employment constitute a danger that could reasonably be expected to**  
 13 **immediately cause an employee death or serious physical harm, the petition may**  
 14 **be heard on shortened notice. The administrative law judge shall issue a decision**  
 15 **on the petition within seven days after the hearing.** If an employer fails to comply  
 16 with a stop order issued under this section, **an administrative law judge** [THE  
 17 BOARD] shall assess a civil penalty of \$1,000 **a** [PER] day. The employer may not  
 18 obtain a public contract with the state or a political subdivision of the state for three  
 19 years following the violation of the stop order.

20 \* **Sec. 40.** AS 23.30.080 is amended by adding new subsections to read:

21 (e) If an employer fails, refuses, or neglects to insure or provide security as  
 22 required by AS 23.30.075(a), the director may petition to order payment of a civil  
 23 penalty to the state of an amount up to \$100 for each employee for each day an  
 24 employee is employed while the employer is uninsured or does not provide the  
 25 security required by AS 23.30.075(a). The failure of an employer to file evidence of  
 26 compliance as required by AS 23.30.085 creates a rebuttable presumption that the  
 27 employer has failed to obtain and keep insurance or provide security as required by  
 28 AS 23.30.075(a). The petition shall be filed in the office of the commission. An  
 29 administrative law judge shall hear the petition within 20 days after service of the  
 30 petition on the employer. If the director presents evidence with the petition that  
 31 hazards in the employment constitute a danger that could reasonably be expected to

1 immediately cause an employee death or serious physical harm, the petition may be  
 2 heard on shortened notice. The administrative law judge shall issue a decision on the  
 3 petition within seven days after the hearing.

4 (f) If an employer fails to pay a civil penalty ordered under (d) or (e) of this  
 5 section within seven days after the date of service of the order upon the employer, the  
 6 director may declare the employer in default. The director shall file a certified copy of  
 7 the penalty order and declaration of default with the clerk of the superior court. The  
 8 court shall, upon the filing of the copy of the order and declaration, enter judgment for  
 9 the amount declared in default if it is in accordance with law. Anytime after a  
 10 declaration of default, the attorney general, when requested to do so by the director,  
 11 shall take appropriate action to assure collection of defaulted payment. Review of the  
 12 judgment may be had as provided under the Alaska Rules of Civil Procedure. Final  
 13 proceedings to execute the judgment may be had by writ of execution.

14 \* **Sec. 41.** AS 23.30.085(a) is amended to read:

15 (a) An employer subject to this chapter, unless exempted, shall initially file  
 16 evidence of compliance with the insurance provisions of this chapter with the **division**  
 17 [BOARD], in the form prescribed by **the director** [IT]. The employer shall also give  
 18 evidence of compliance within 10 days after the termination of the employer's  
 19 insurance by expiration or cancellation. These requirements do not apply to an  
 20 employer who has certification from the **division** [BOARD] of the employer's  
 21 financial ability to pay compensation directly without insurance.

22 \* **Sec. 42.** AS 23.30.090 is amended to read:

23 **Sec. 23.30.090. Self-insurance certificates.** If an employer has complied  
 24 with the provisions of this chapter relating to self-insurance and has paid annual  
 25 service fees assessed under AS 23.05.067, the **director** [BOARD] shall issue the  
 26 employer a certificate that shall remain in force for a period fixed by the **director**  
 27 [BOARD]. The **director** [BOARD] may, upon at least 10 days' notice and a hearing,  
 28 revoke a self-insurance certificate upon satisfactory proof that an employer is no  
 29 longer entitled to it. **The hearing shall be conducted by an administrative law**  
 30 **judge within 20 days after service of the director's notice. Within 14 days after**  
 31 **the hearing, the administrative law judge shall make a proposed decision to the**

1 **director, who may adopt, amend, or reject it in the director's discretion.** After  
 2 revocation, the **director** [BOARD] may grant a new certificate to an employer, upon  
 3 the employer's petition and satisfactory proof of the employer's financial ability as  
 4 provided in this chapter. An employer authorized as a self-insurer shall provide  
 5 claims facilities through its own staffed adjusting facilities located within the state, or  
 6 independent, licensed, resident adjusters with power to effect settlement within the  
 7 state.

8 \* **Sec. 43.** AS 23.30.090 is amended by adding a new subsection to read:

9 (b) All testimony given before an administrative law judge under this section  
 10 shall be recorded, but need not be transcribed unless further review is initiated.  
 11 Hearings shall be open to the public.

12 \* **Sec. 44.** AS 23.30.095(a) is amended to read:

13 (a) The employer shall furnish medical, surgical, and other attendance or  
 14 treatment, nurse and hospital service, medicine, crutches, and apparatus for the period  
 15 **that** [WHICH] the nature of the injury or the process of recovery requires, not  
 16 exceeding two years from and after the date of injury to the employee. However, if  
 17 the condition requiring the treatment, apparatus, or medicine is a latent one, the two-  
 18 year period runs from the time the employee has knowledge of the nature of the  
 19 employee's disability and its relationship to the employment and after disablement. **If**  
 20 [IT SHALL BE ADDITIONALLY PROVIDED THAT, IF] continued treatment or  
 21 care or both beyond the two-year period is indicated, the injured employee has the  
 22 right of review by **an administrative law judge** [THE BOARD]. The **administrative**  
 23 **law judge** [BOARD] may authorize continued treatment or care or both as the process  
 24 of recovery may require. When medical care is required, the injured employee may  
 25 designate a licensed physician to provide all medical and related benefits. The  
 26 employee may not make more than one change in the employee's choice of attending  
 27 physician without the written consent of the employer. Referral to a specialist by the  
 28 employee's attending physician is not considered a change in physicians. Upon  
 29 procuring the services of a physician, the injured employee shall give proper  
 30 notification of the selection to the employer within a reasonable time after first being  
 31 treated. Notice of a change in the attending physician shall be given before the

1 change.

2 \* **Sec. 45.** AS 23.30.095(c) is amended to read:

3 (c) A claim for medical or surgical treatment [,] or treatment requiring  
 4 continuing and multiple treatments of a similar nature is not valid and enforceable  
 5 against the employer unless, within 14 days following treatment, the physician or  
 6 health care provider giving the treatment or the employee receiving it furnishes to the  
 7 employer and the **division** [BOARD] notice of the injury and treatment, preferably on  
 8 a form prescribed by the **director** [BOARD]. **An administrative law judge** [THE  
 9 BOARD] shall, however, excuse the failure to furnish notice within 14 days when **the**  
 10 **administrative law judge** [IT] finds it to be in the interest of justice to do so, and **the**  
 11 **administrative law judge** [IT] may, upon application by a party in interest, make an  
 12 award for the reasonable value of the medical or surgical treatment so obtained by the  
 13 employee. When a claim is made for a course of treatment requiring continuing and  
 14 multiple treatments of a similar nature, in addition to the notice, the physician or  
 15 health care provider shall furnish a written treatment plan if the course of treatment  
 16 will require more frequent outpatient visits than the standard treatment frequency for  
 17 the nature and degree of the injury and the type of treatments. The treatment plan  
 18 shall be furnished to the employee and the employer within 14 days after treatment  
 19 begins. The treatment plan must include objectives, modalities, frequency of  
 20 treatments, and reasons for the frequency of treatments. If the treatment plan is not  
 21 furnished as required under this subsection, neither the employer nor the employee  
 22 may be required to pay for treatments that exceed the frequency standard. The  
 23 **director shall propose and the department** [BOARD] shall adopt regulations  
 24 establishing standards for frequency of treatment.

25 \* **Sec. 46.** AS 23.30.095(d) is amended to read:

26 (d) If at any time during the period the employee unreasonably refuses to  
 27 submit to medical or surgical treatment, **an administrative law judge** [THE BOARD]  
 28 may by order suspend the payment of further compensation while the refusal  
 29 continues, and no compensation may be paid at any time during the period of  
 30 suspension, unless the circumstances justified the refusal.

31 \* **Sec. 47.** AS 23.30.095(e) is amended to read:

1 (e) The employee shall, after an injury, at reasonable times during the  
2 continuance of the disability, if requested by the employer or when ordered by **an**  
3 **administrative law judge** [THE BOARD], submit to an examination by a physician  
4 or surgeon of the employer's choice authorized to practice medicine under the laws of  
5 the jurisdiction in which the examination occurs, furnished and paid for by the  
6 employer. The employer may not make more than one change in the employer's  
7 choice of a physician or surgeon without the written consent of the employee.  
8 Referral to a specialist by the employer's physician is not considered a change in  
9 physicians. An examination requested by the employer not less than 14 days after  
10 injury, and every 60 days thereafter, shall be presumed to be reasonable, and the  
11 employee shall submit to the examination without further request or order by **an**  
12 **administrative law judge** [THE BOARD]. Unless medically appropriate, the  
13 physician shall use existing diagnostic data to complete the examination. Facts  
14 relative to the injury or claim communicated to or otherwise learned by a physician or  
15 surgeon who may have attended or examined the employee [,] or who may have been  
16 present at an examination are not privileged, either in the hearings provided for in this  
17 chapter or an action to recover damages against an employer who is subject to the  
18 compensation provisions of this chapter. If an employee refuses to submit to an  
19 examination provided for in this section, the employee's rights to compensation shall  
20 be suspended until the obstruction or refusal ceases, and the employee's compensation  
21 during the period of suspension may, in the discretion of **an administrative law judge**  
22 [THE BOARD] or the court determining an action brought for the recovery of  
23 damages under this chapter, be forfeited. **In** [THE BOARD IN] any case of death, **the**  
24 **director** may **order** [REQUIRE] an autopsy at the expense of the party requesting the  
25 autopsy. An autopsy may not be held without notice first being given to the widow or  
26 widower or next of kin if they reside in the state or their whereabouts can be  
27 reasonably ascertained, of the time and place of the autopsy and reasonable time and  
28 opportunity given the widow or widower or next of kin to have a representative  
29 present to witness the autopsy. If adequate notice is not given, the findings from the  
30 autopsy may be suppressed on **petition** [MOTION] made to **an administrative law**  
31 **judge** [THE BOARD] or to the superior court, as the case may be.

1 \* **Sec. 48.** AS 23.30.095(f) is amended to read:

2 (f) All fees and other charges for medical treatment or service shall be subject  
3 to regulation by the **department** [BOARD] but may not exceed usual, customary, and  
4 reasonable fees for the treatment or service in the community in which it is rendered,  
5 as determined by the **director** [BOARD]. An employee may not be required to pay a  
6 fee or charge for medical treatment or service. The **director shall propose and the**  
7 **department** [BOARD] shall adopt updated usual, customary, and reasonable medical  
8 fee schedules at least once each year.

9 \* **Sec. 49.** AS 23.30.095(h) is amended to read:

10 (h) Upon the filing with the **division** [BOARD] by a party in interest of an  
11 application or other pleading, all parties to the proceeding must immediately, or in any  
12 event within five days after service of the pleading, send to the **division** [BOARD] the  
13 original signed reports of all physicians relating to the proceedings **that** [WHICH]  
14 they may have in their possession or under their control, and copies of the reports shall  
15 be served by the party immediately on **any** [THE] adverse party. There is a  
16 continuing duty on **all** [THE] parties to [SO] file and serve all the reports during the  
17 pendency of the proceeding.

18 \* **Sec. 50.** AS 23.30.095(j) is amended to read:

19 (j) The **director** [BOARD] may appoint a medical services review committee,  
20 or contract with an existing organization in the state or another state, to assist and  
21 advise the **director** [BOARD] in matters involving the appropriateness, necessity, and  
22 cost of medical and related services provided under this chapter.

23 \* **Sec. 51.** AS 23.30.095(k) is amended to read:

24 (k) In the event of a medical dispute regarding determinations of causation,  
25 medical stability, ability to enter a reemployment plan, degree of impairment,  
26 functional capacity, the amount and efficacy of the continuance of or necessity of  
27 treatment, or compensability between the employee's attending physician and the  
28 employer's independent medical evaluation, the **director** [BOARD] may require that a  
29 second independent medical evaluation be conducted by a physician or physicians  
30 selected [BY THE BOARD] from a list established and maintained by the **director**  
31 [BOARD]. The cost of an examination and medical report shall be paid by the

1 employer. The report of an independent medical examiner shall be furnished to the  
 2 **division** [BOARD] and to the parties within 14 days after the examination is  
 3 concluded. A person may not seek damages from an independent medical examiner  
 4 caused by the rendering of an opinion or providing testimony under this subsection,  
 5 except in the event of fraud or gross incompetence.

6 \* **Sec. 52.** AS 23.30.100(a) is amended to read:

7 (a) Notice of an injury or death **with** [IN] respect to which compensation is  
 8 payable under this chapter shall be given within 30 days after the date of such injury  
 9 or death to the **division** [BOARD] and to the employer.

10 \* **Sec. 53.** AS 23.30.100(c) is amended to read:

11 (c) Notice shall be given to the **division** [BOARD] by delivering it or sending  
 12 it by mail addressed to the **division's** [BOARD'S] office, and to the employer by  
 13 delivering it to the employer or by sending it by mail addressed to the employer at the  
 14 employer's last known place of business. If the employer is a partnership, the notice  
 15 may be given to a partner, or, if a corporation, the notice may be given to an agent or  
 16 officer upon whom legal process may be served or who is in charge of the business in  
 17 the place where the injury occurred.

18 \* **Sec. 54.** AS 23.30.100(d) is amended to read:

19 (d) Failure to give notice does not bar a claim under this chapter

20 (1) if the employer, an agent of the employer in charge of the business  
 21 in the place where the injury occurred, or the carrier had knowledge of the injury or  
 22 death and **an administrative law judge** [THE BOARD] determines that the employer  
 23 or carrier has not been prejudiced by failure to give notice;

24 (2) if **an administrative law judge** [THE BOARD] excuses the failure  
 25 on the ground that, for some satisfactory reason, notice could not be given;

26 (3) unless objection to the failure is raised before **an administrative**  
 27 **law judge** [THE BOARD] at the first hearing of a claim for compensation **with** [IN]  
 28 respect to the injury or death.

29 \* **Sec. 55.** AS 23.30.105(a) is amended to read:

30 (a) The right to compensation for disability under this chapter is barred unless  
 31 a claim for it is filed within two years after the employee has knowledge of the nature

1 of the employee's disability and its relation to the employment and after disablement.  
 2 However, the maximum time for filing the claim in any event other than arising out of  
 3 an occupational disease shall be four years from the date of injury, and the right to  
 4 compensation for death is barred unless a claim [THEREFOR] is filed within one year  
 5 after the death, except that, if payment of compensation has been made without an  
 6 award on account of the injury or death, a claim may be filed within two years after  
 7 the date of the last payment of benefits under AS 23.30.041, 23.30.180, 23.30.185,  
 8 23.30.190, 23.30.200, or 23.30.215. In [IT IS ADDITIONALLY PROVIDED THAT,  
 9 IN] the case of latent defects pertinent to and causing compensable disability, the  
 10 injured employee has the full right to claim compensation as shall be determined by  
 11 an administrative law judge [THE BOARD], time limitations notwithstanding.

12 \* **Sec. 56.** AS 23.30.107 is amended to read:

13 **Sec. 23.30.107. Release of information.** (a) Upon written request, an  
 14 employee shall provide written authority to the employer, carrier, rehabilitation  
 15 specialist, or reemployment benefits administrator to obtain medical and rehabilitation  
 16 information relative to the employee's injury. The request must include notice of the  
 17 employee's right to file a petition for a protective order with the division [BOARD]  
 18 and must be served by certified mail to the employee's address on the notice of injury  
 19 or by hand delivery to the employee. This subsection may not be construed to  
 20 authorize an employer, carrier, rehabilitation specialist, or reemployment benefits  
 21 administrator to request medical or other information that is not applicable to the  
 22 employee's injury.

23 (b) Medical or rehabilitation records in an employee's file maintained by the  
 24 division or held by the commission or the office of administrative hearings  
 25 (AS 44.64.010) [BOARD] are not public records subject to public inspection and  
 26 copying under AS 40.25. This subsection does not prohibit

27 (1) the reemployment benefits administrator, the division, the office of  
 28 the commission, the office of administrative hearings (AS 44.64.010) [BOARD], or  
 29 the department from releasing medical or rehabilitation records in an employee's file,  
 30 without the employee's consent, to a physician providing medical services under  
 31 AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a

1 governmental agency; or

2 (2) the quoting or discussing of medical or rehabilitation records  
3 contained in an employee's file during a hearing on a claim for compensation [,] or in  
4 a decision and order of the **administrative law judge, the director, or the**  
5 **commission** [BOARD].

6 \* **Sec. 57.** AS 23.30.108 is amended to read:

7 **Sec. 23.30.108. Prehearing conferences [PREHEARINGS] on discovery**  
8 **matters; objections to requests for release of information; sanctions for**  
9 **noncompliance.** (a) If an employee objects to a request for written authority under  
10 AS 23.30.107, the employee must file a petition with the **division** [BOARD] seeking a  
11 protective order within 14 days after service of the request. If the employee fails to  
12 file a petition and fails to deliver the written authority as required by AS 23.30.107  
13 within 14 days after service of the request, the employee's rights to benefits under this  
14 chapter are suspended until the written authority is delivered.

15 (b) If a petition seeking a protective order is filed, the **division shall promptly**  
16 **notify the commission, and the commission clerk shall, within seven days, request**  
17 **assignment of an administrative law judge and** [BOARD] shall set a prehearing  
18 **conference with the administrative law judge to occur** within 21 days after the  
19 filing date of the petition. At a prehearing **conference** conducted by **an**  
20 **administrative law judge** [THE BOARD'S DESIGNEE], the **administrative law**  
21 **judge** [BOARD'S DESIGNEE] has the authority to resolve disputes concerning the  
22 written authority. If the **administrative law judge** [BOARD OR THE BOARD'S  
23 DESIGNEE] orders delivery of the written authority and if the employee refuses to  
24 deliver it within 10 days after being ordered to do so, the employee's rights to benefits  
25 under this chapter are suspended until the written authority is delivered. During any  
26 period of suspension under this subsection, the employee's benefits under this chapter  
27 are forfeited unless **an administrative law judge** [THE BOARD], or the court  
28 determining an action brought for the recovery of damages under this chapter,  
29 determines that good cause existed for the refusal to provide the written authority.

30 (c) At a prehearing **conference** on discovery matters conducted by **an**  
31 **administrative law judge** [THE BOARD'S DESIGNEE], the **administrative law**

1 judge [BOARD'S DESIGNEE] shall direct parties to sign releases or produce  
 2 documents, or both, if the parties present releases or requests for documents that are  
 3 likely to lead to admissible evidence relative to an employee's injury. If a party  
 4 refuses to comply with an order by an administrative law judge [THE BOARD'S  
 5 DESIGNEE OR THE BOARD] concerning discovery matters, an administrative law  
 6 judge [THE BOARD] may impose appropriate sanctions in addition to any forfeiture  
 7 of benefits, including dismissing the party's claim, petition, or defense. A party may  
 8 petition the commission for expedited review of an order of an administrative law  
 9 judge on discovery matters within seven days after the date of service of the  
 10 challenged order, and a party opposing the petition shall respond within seven  
 11 days after service of the petition. The commission shall determine whether to  
 12 grant or deny a petition for review within 10 days after a response is due. If [A  
 13 DISCOVERY DISPUTE COMES BEFORE] the commission grants a petition  
 14 [BOARD] for expedited review of a discovery determination by an administrative  
 15 law judge [THE BOARD'S DESIGNEE], the commission [BOARD] may not  
 16 consider any evidence or argument that was not presented to the administrative law  
 17 judge [BOARD'S DESIGNEE], but shall determine the issue solely on the basis of the  
 18 written record. The decision by the commission [BOARD] on a discovery dispute  
 19 shall be made within 30 days. The commission [BOARD] shall uphold an  
 20 administrative law judge's [THE DESIGNEE'S] decision except when the  
 21 administrative law judge's [BOARD'S DESIGNEE'S] determination is an abuse of  
 22 discretion.

23 \* **Sec. 58.** AS 23.30.110 is amended to read:

24 **Sec. 23.30.110. Procedure on claims and petitions.** (a) Subject to the  
 25 provisions of AS 23.30.105, a claim for or petition relating to compensation or  
 26 benefits or both may be filed with the division [BOARD] in accordance with its  
 27 regulations at any time after the first seven days of disability following an injury, or at  
 28 any time after death, and an administrative law judge [THE BOARD] may hear and  
 29 determine all questions with [IN] respect to the claim or petition. AS 44.64.060 does  
 30 not apply to hearings under this section.

31 (b) Within 10 days after a claim or petition is filed, the division [BOARD], in

1 accordance with its regulations, shall notify the **opposing party**, employer, and any  
 2 other person, other than the claimant **or petitioner**, whom the **director** [BOARD]  
 3 considers an interested party that a claim **or petition** has been filed. The notice may  
 4 be served personally [UPON THE EMPLOYER OR OTHER PERSON,] or sent by  
 5 **certified** [REGISTERED] mail.

6 (c) Before a hearing is scheduled, the party seeking a hearing shall file **with**  
 7 **the office of the commission** a request for a hearing together with an affidavit stating  
 8 that the party has completed necessary discovery, **has** obtained necessary evidence,  
 9 and is prepared for the hearing. **Within seven days after filing of a request for**  
 10 **hearing, the commission clerk shall request the chief administrative law judge**  
 11 **appointed under AS 44.64.010 to assign an administrative law judge for the**  
 12 **hearing.** An opposing party shall have 10 days after the hearing request is filed to file  
 13 a response. If a party opposes the hearing request, **an administrative law judge**  
 14 [THE BOARD OR A BOARD DESIGNEE] shall, within 30 days **after** [OF] the filing  
 15 of the opposition, conduct a pre-hearing conference, **plan the timing and sequence of**  
 16 **discovery and other preliminary matters,** and set a **reasonable** hearing date. If  
 17 opposition is not filed, **the administrative law judge shall schedule a hearing not**  
 18 [A HEARING SHALL BE SCHEDULED NO] later than 60 days after the receipt of  
 19 the hearing request. The **administrative law judge** [BOARD] shall give each party at  
 20 least 10 days' notice of the hearing, either personally or by certified mail. After a  
 21 hearing has been scheduled, the parties may not stipulate to change the hearing date or  
 22 to cancel, postpone, or continue the hearing, except for good cause as determined by  
 23 the **administrative law judge. The hearing shall be before an administrative law**  
 24 **judge unless otherwise provided by this chapter** [BOARD]. After completion of  
 25 the hearing, the **administrative law judge** [BOARD] shall close the hearing record.  
 26 If a settlement agreement is reached by the parties less than 14 days before the  
 27 hearing, the parties shall appear at the time of the scheduled hearing to state the terms  
 28 of the settlement agreement. Within 30 days after the hearing record closes, the  
 29 **administrative law judge** [BOARD] shall file **a written** [ITS] decision. If the  
 30 employer controverts a claim on a **director-prescribed** [BOARD-PRESCRIBED]  
 31 controversion notice and the employee does not request a hearing within two years

1 following the filing of the controversion notice, the claim is denied.

2 (d) At the hearing, the **parties** [CLAIMANT AND THE EMPLOYER] may  
3 each present evidence **with** [IN] respect to the claim **or petition** and may be  
4 represented by any person authorized in writing for that purpose.

5 (e) The order **of the administrative law judge** rejecting the claim **or petition**,  
6 or making the award, referred to in this chapter as a compensation order, shall be filed  
7 in the office of the **commission** [BOARD], and a copy of it shall be sent by **certified**  
8 [REGISTERED] mail to the **parties** [CLAIMANT AND TO THE EMPLOYER] at  
9 the last known address of each.

10 (f) An award of compensation for disability **or an order dismissing a claim**  
11 may be made after the death of an injured employee.

12 (g) An injured employee claiming or entitled to compensation shall submit to  
13 the physical examination by a duly qualified physician **that an administrative law**  
14 **judge** [WHICH THE BOARD] may require. The place or places shall be reasonably  
15 convenient for the employee. The physician or physicians as the employee, employer,  
16 or carrier may select and pay for may participate in an examination if the employee,  
17 employer, or carrier so requests. Proceedings shall be suspended and no compensation  
18 may be payable for a period during which the employee refuses to submit to  
19 examination.

20 (h) The filing of a hearing request under (c) of this section suspends the  
21 running of the two-year time period specified in (c) of this section. However, if the  
22 employee subsequently requests a continuance of the hearing and the request is  
23 **granted** [APPROVED BY THE BOARD], the granting of the continuance renders the  
24 request for hearing inoperative, and the two-year time period specified in (c) of this  
25 section continues to run again from the date of **an administrative law judge's** [THE  
26 BOARD'S] notice to the employee of [THE BOARD'S GRANTING OF] the  
27 continuance and of its effect. If the employee fails to again request a hearing before  
28 the conclusion of the two-year time period in (c) of this section, the claim is denied.

29 \* **Sec. 59.** AS 23.30.110 is amended by adding new subsections to read:

30 (i) An order dismissing a claim in whole or in part may be made before a  
31 hearing on the merits of the claim when (1) the claim requests relief that cannot be

1 granted under this chapter; (2) there is a lack of jurisdiction over the subject matter of  
 2 the claim or the person under this chapter; (3) division process or service of process  
 3 was insufficient; (4) the claim has not been prosecuted or a hearing was not requested  
 4 within the time allowed in (c) of this section; or (5) the claim is barred by a statute of  
 5 limitation. If, within 60 days after service of an order dismissing a claim under (1) -  
 6 (3) of this subsection, the defects stated in the order are cured, the dismissal may be  
 7 vacated. Otherwise, the order of dismissal is a final compensation order.

8 (j) At any time, a party may petition for a summary decision on all or part of a  
 9 claim. The administrative law judge shall grant the petition if (1) the administrative  
 10 law judge finds all reasonable discovery has been made on the issues presented; and  
 11 (2) the record shows that there is no genuine issue of any material fact and that the  
 12 petitioner is entitled to a decision as a matter of law. The administrative law judge  
 13 may file a compensation order in favor of the petitioner if the administrative law  
 14 judge's summary decision adjudicates all issues in the claim with respect to the  
 15 petitioner.

16 \* **Sec. 60.** AS 23.30 is amended by adding new sections to read:

17 **Sec. 23.30.112. Administrative law judges.** (a) Unless otherwise provided  
 18 in this chapter, hearings on claims and petitions shall be conducted by an  
 19 administrative law judge. In addition to the qualifications provided in AS 44.64.040,  
 20 an administrative law judge conducting hearings or other proceedings under this  
 21 chapter must have at least three years of experience in this state in the field of workers'  
 22 compensation law or in a similar field of practice.

23 (b) An administrative law judge for the purposes of this chapter may

24 (1) subpoena witnesses, administer or cause to be administered oaths,  
 25 and order production of parts of the books and records of the parties to a proceeding or  
 26 other records, documents, or papers that relate to questions in dispute; the superior  
 27 court, on application of the administrative law judge under AS 44.62.590, shall  
 28 enforce the attendance and testimony of witnesses and the production and examination  
 29 of books, papers, and records;

30 (2) direct a physician or hospital rendering medical treatment or  
 31 service under this chapter to furnish to the division periodic reports of treatment or

1 services on forms prescribed by the division;

2 (3) arrange to have hearings held by the commission, officer, or  
3 tribunal having authority to hear cases arising under the workers' compensation law of  
4 any other state, of the District of Columbia, or of any territory of the United States,  
5 when a proceeding in this state so requires; the testimony and proceedings at the  
6 hearing shall be reported to the commission and are a part of the record in the case;  
7 evidence taken at the hearing is subject to rebuttal upon final hearing under this  
8 chapter.

9 **Sec. 23.30.113. Hearings before an administrative law judge.** (a)  
10 Notwithstanding any contrary provision of law, hearings under this chapter before an  
11 administrative law judge are to be conducted as provided in AS 23.30.110 and this  
12 section, or as otherwise provided under this chapter. Other proceedings under this  
13 chapter before an administrative law judge are to be conducted as provided in this  
14 chapter or in regulations adopted under this chapter.

15 (b) In conducting a hearing under this chapter, an administrative law judge is  
16 not bound by common law or statutory rules of evidence or by technical or formal  
17 rules of procedure, except as provided by this chapter and the regulations of the  
18 commission. The hearing may be conducted in the manner designed to best ascertain  
19 the rights of the parties. In proceedings before administrative law judges, the  
20 administrative adjudication procedures of AS 44.62 (Administrative Procedure Act)  
21 do not apply, except that AS 44.62.410(b), 44.62.460(a) - (d), 44.62.470, 44.62.480,  
22 44.62.510, and 44.62.590 shall apply to proceedings under this chapter. Declarations  
23 of a deceased employee concerning the injury with respect to which the investigation  
24 or inquiry is being made or the hearing conducted shall be received in evidence and  
25 are, if corroborated by other evidence, sufficient to establish the injury.

26 (b) The administrative law judge shall preside over hearings of claims and  
27 petitions under this chapter and perform all other functions in an impartial manner  
28 with due regard for the rights of all parties and the facts and the law, and consistent  
29 with the orderly and prompt dispatch of proceedings under this chapter. The  
30 administrative law judge shall rule on questions of procedure, the admission and  
31 exclusion of evidence, and make rulings on matters of law.

1 (c) An administrative law judge shall voluntarily seek disqualification and  
 2 withdraw from a case in which the administrative law judge cannot accord a fair and  
 3 impartial hearing or consideration, or other reason established under AS 44.64.070. A  
 4 party may request disqualification of an administrative law judge under AS 44.64.070.  
 5 Except as otherwise permitted by law, an administrative law judge may not engage in  
 6 interviews with or hear evidence or argument from, a party directly or indirectly,  
 7 except upon opportunity for all parties to be present. Copies of all communications to  
 8 an administrative law judge shall be served on all other parties.

9 (d) All testimony given during a hearing before an administrative law judge  
 10 shall be recorded but need not be transcribed unless further review is initiated.  
 11 Hearings before an administrative law judge shall be open to the public.

12 \* **Sec. 61.** AS 23.30.115 is amended to read:

13 **Sec. 23.30.115. Attendance and fees of witnesses.** (a) A person is not  
 14 required to attend as a witness in a hearing [PROCEEDING] before the commission  
 15 or an administrative law judge [BOARD] at a place more than 100 miles from the  
 16 person's place of residence, unless the person's lawful mileage and fee for one day's  
 17 attendance is first paid or tendered to the person; but the testimony of a witness may  
 18 be taken by deposition or interrogatories according to the Rules of Civil Procedure.

19 (b) A witness summoned to testify in a hearing [PROCEEDING] before the  
 20 commission or an administrative law judge [BOARD] or whose deposition is taken  
 21 shall receive the same fees and mileage as a witness in the superior court. The  
 22 commission clerk may issue subpoenas and subpoenas duces tecum to summon a  
 23 witness to testify in a hearing or deposition and to produce records. The superior  
 24 court shall enforce the subpoenas on application by the commission in the  
 25 manner provided in AS 44.62.590.

26 \* **Sec. 62.** AS 23.30.120(b) is amended to read:

27 (b) If delay in giving notice is excused by the administrative law judge  
 28 [BOARD] under AS 23.30.100(d)(2), the burden of proof of the validity of the claim  
 29 shifts to the employee, notwithstanding the provisions of (a) of this section.

30 \* **Sec. 63.** AS 23.30.122 is repealed and reenacted to read:

31 **Sec. 23.30.122. Credibility of witnesses.** The administrative law judge has

1 the sole power to determine the credibility of testimony presented by a witness. When  
 2 credibility is disputed in a proceeding before the administrative law judge, the  
 3 administrative law judge's determination of credibility must be supported by specific  
 4 findings.

5 \* **Sec. 64.** AS 23.30 is amended by adding a new section to read:

6 **Sec. 23.30.124. Reconsideration of compensation order.** (a) An  
 7 administrative law judge may order a reconsideration of all or part of a compensation  
 8 order on the administrative law judge's own motion or on petition of a party. A  
 9 petition for reconsideration must be filed with the office of the commission within 15  
 10 days after mailing of the compensation order. The power to order reconsideration  
 11 expires 30 days after the mailing of a compensation order. If an order of  
 12 reconsideration is not filed with the office of the commission within the time allowed  
 13 for ordering reconsideration, the petition is considered denied.

14 (b) If reconsideration is ordered under (a) of this section, the compensation  
 15 order under reconsideration is stayed until the decision on reconsideration is filed.  
 16 The case may be reconsidered by the administrative law judge on of all the pertinent  
 17 parts of the record and the additional arguments that are permitted by the  
 18 administrative law judge. A written decision on reconsideration shall be filed with the  
 19 commission within 30 days after the date the order of reconsideration was filed.

20 \* **Sec. 65.** AS 23.30.125 is repealed and reenacted to read:

21 **Sec. 23.30.125. Administrative review of compensation order.** (a) A  
 22 compensation order becomes effective when filed with the office of the commission as  
 23 provided in AS 23.30.110, and, unless proceedings to reconsider, suspend, or set aside  
 24 the order are instituted as provided in this chapter, the order becomes final on the 31st  
 25 day after it is filed.

26 (b) Notwithstanding other provisions of law, a decision or order of an  
 27 administrative law judge is subject to review by the commission as provided in this  
 28 chapter.

29 (c) If a compensation order is not in accordance with law or fact, the order  
 30 may be suspended or set aside, in whole or in part, through proceedings in the  
 31 commission brought by a party in interest against all other parties to the proceedings

1 before the administrative law judge. The payment of the amounts required by an  
 2 award may not be stayed pending a final decision in the proceeding unless, upon  
 3 application for a stay, the commission, on hearing, after not less than three days' notice  
 4 to the parties in interest and the director, allows the stay of payment, in whole or in  
 5 part, where the party filing the application would otherwise suffer irreparable damage.  
 6 Continuing future periodic compensation payments may not be stayed without a  
 7 showing by the appellant of irreparable damage and the existence of the probability of  
 8 the merits of the appeal being decided adversely to the recipient of compensation. The  
 9 order of the commission allowing a stay must contain a specific finding, based upon  
 10 evidence submitted to the commission and identified by reference to the evidence, that  
 11 irreparable damage would result to the party applying for a stay and specifying the  
 12 nature of the damage.

13 (d) Proceedings for reconsidering, suspending, setting aside, or enforcing a  
 14 compensation order, whether rejecting a claim or making an award, may not be  
 15 instituted, except as provided in this chapter.

16 \* **Sec. 66.** AS 23.30 is amended by adding new sections to read:

17 **Sec. 23.30.126. Review of director's decision.** (a) A decision by the director  
 18 that affects a right, privilege, benefit, or duty that is imposed or conferred under this  
 19 chapter is subject to review by the commission. A decision by the director becomes  
 20 effective when filed with the division, and, unless proceedings to suspend or set aside  
 21 the decision are instituted as provided in this section, the decision becomes final on the  
 22 31st day after it is filed.

23 (b) If a decision of the director is not in accordance with law or fact, the  
 24 decision may be suspended or set aside, in whole or in part, through proceedings in the  
 25 commission brought by a party in interest against the director and all other parties to  
 26 the proceedings. The decision may not be stayed pending final decision in the  
 27 proceeding unless, upon application for a stay, the commission, on hearing, after not  
 28 less than three days' notice to the parties in interest and the director, allows the stay, in  
 29 whole or in part, where irreparable damage would otherwise result. The order of the  
 30 commission allowing the stay shall contain a specific finding, based upon evidence  
 31 submitted to the commission and identified by reference to it, that irreparable damage

1 would result to the party applying for a stay, and specifying the nature of the damage.

2 (c) Proceedings for suspending, setting aside, or enforcing a director's decision  
3 or determination may not be instituted except as provided in this chapter.

4 **Sec. 23.30.127. Appeals to commission.** (a) A party in interest may appeal a  
5 compensation order issued by an administrative law judge to the commission within  
6 30 days after the compensation order is filed with the office of the commission under  
7 AS 23.30.110. The director may intervene in an appeal. If a party in interest is not  
8 represented by counsel and the compensation order concerns an unsettled question of  
9 law, the director may file an appeal to obtain a ruling on the question by the  
10 commission.

11 (b) A party in interest may appeal a decision of the director to the commission  
12 within 30 days after the decision is filed with the division.

13 (c) An appeal shall be initiated by filing with the office of the commission

14 (1) a signed notice of appeal specifying the compensation order or  
15 director's decision appealed from;

16 (2) a statement of the grounds upon which the appeal is taken; and

17 (3) other materials the commission may by regulation require.

18 (d) A cross-appeal may be initiated by filing with the office of the commission  
19 a signed notice of cross-appeal within 30 days after the decision is filed or within 15  
20 days after service of notice of an appeal, whichever is later. The notice of cross-  
21 appeal shall specify the compensation order appealed from and the grounds upon  
22 which the cross-appeal is taken.

23 (e) The office of the commission may charge a fee, not to exceed \$100, for  
24 filing appeals and cross-appeals, except that the office of the commission may not  
25 charge a fee if the appellant is the state or a political subdivision of the state. The  
26 commission may require an appellant to pay the costs of the transcript of hearing and  
27 the preparation of the record on appeal. The commission may require cross-appellants  
28 or intervenors to share in the costs.

29 (f) If a request for reconsideration of an administrative law judge's decision is  
30 timely filed with the office of the commission, the notice of appeal must be filed  
31 within 30 days after the reconsideration decision is mailed to the parties, or the date

1 the request for reconsideration is considered denied, in the absence of any action on  
2 the request, whichever is earlier.

3 (g) The commission may require written briefs and make other rules and  
4 orders to facilitate the business of the commission and advance the prompt, fair, and  
5 just disposition of appeals.

6 **Sec. 23.30.128. Commission proceedings.** (a) An appeal from a decision of  
7 the director or an administrative law judge under this chapter, and other proceedings  
8 under this section, shall be heard and decided by a three-member panel of the  
9 commission. An appeal panel of the commission must include the chair of the  
10 commission. The chair of the commission shall assign two members to each appeal,  
11 including one commission member classified as representing employees and one  
12 commission member classified as representing employers. Acts, decisions, and orders  
13 of the commission panel in the appeal or related proceeding shall be considered the  
14 acts, decisions, and orders of the full commission. The matter on appeal shall be  
15 decided by the commission panel on the record made before the director or  
16 administrative law judge, a transcript or recording of the proceedings before the  
17 director or administrative law judge, and oral argument and written briefs allowed by  
18 the commission. Except as provided in (c) of this section, new or additional evidence  
19 may not be received with respect to the appeal.

20 (b) The commission may review de novo all discretionary actions, findings of  
21 fact, and conclusions of law by the administrative law judge, or the director in hearing,  
22 determining, or otherwise acting on any compensation claim or petition. An  
23 administrative law judge's findings regarding the credibility of testimony of a witness  
24 are binding on the commission. The findings of the administrative law judge, if not  
25 set aside by the commission, are conclusive.

26 (c) The commission may hold hearings and receive evidence on applications  
27 for (1) stays under AS 23.30.125; (2) attorney fees and costs of appeal; (3) waiver of  
28 fees by indigent appellants; or (4) dismissal of appeals for failure to prosecute or upon  
29 settlement. The commission may rely on new or additional evidence presented during  
30 the hearing in making its decision on the application.

31 (d) The commission may affirm, reverse, or modify a decision or order upon

1 review and issue other orders as appropriate. The commission may remand matters it  
2 determines were improperly, incompletely, or otherwise insufficiently developed. The  
3 commission may remand for further proceedings and appropriate action with or  
4 without relinquishing the commission's jurisdiction of the appeal. The administrative  
5 adjudication procedures of AS 44.62 (Administrative Procedure Act) do not apply to  
6 the proceedings of the commission.

7 (e) Within 90 days after written briefing on the appeal is completed or oral  
8 argument is held, whichever is later, the commission shall issue a decision in writing.  
9 The decision must contain a concise statement of reasons for the decision, including  
10 findings of fact, if required, and conclusions of law. The commission shall serve each  
11 party and the director with a copy of the decision. Appeals may be expedited for good  
12 cause by the commission. Unless reconsideration is ordered under (f) of this section, a  
13 decision under this subsection is the final commission decision.

14 (f) A party or the director may request reconsideration of a decision issued  
15 under (e) of this section within 30 days after the date of service shown in the  
16 certificate of service of the decision. The request must state specific grounds for  
17 reconsideration. Reconsideration may be granted if, in reaching the decision, the  
18 commission (1) overlooked, misapplied, or failed to consider a statute, regulation,  
19 court or administrative decision, or legal principle directly controlling; (2) overlooked  
20 or misconceived a material fact; (3) misconceived a material question in the case; or  
21 (4) applied law in the ruling that has subsequently changed. The panel of the  
22 commission hearing the request for reconsideration shall consist of the same members  
23 of the panel that issued the decision. The commission may issue an order for  
24 reconsideration of all or part of the decision upon request of a party or the director.  
25 Reconsideration is based on the record, unless the commission allows additional  
26 argument. The power to order reconsideration expires 60 days after the date of  
27 service, as shown on the certificate of service, of a decision issued under (e) of this  
28 section. If the commission does not issue an order for reconsideration within the time  
29 allowed for ordering reconsideration, a request for reconsideration is considered  
30 denied. If reconsideration is ordered, the commission shall issue a decision within 30  
31 days after the close of the record on reconsideration. The commission shall serve each

1 party in the case with a copy of the decision upon reconsideration. The decision upon  
2 reconsideration is the final commission decision.

3 (g) A decision of the commission becomes final on the

4 (1) 31st day after the date of service of a decision if reconsideration is  
5 not requested;

6 (2) 61st day after the date of service of a decision if reconsideration is  
7 requested but an order for reconsideration is not issued; or

8 (3) date of service of the commission decision upon reconsideration  
9 under (f) of this section if reconsideration is requested and an order for reconsideration  
10 is issued.

11 **Sec. 23.30.129. Judicial review of commission orders.** (a) Notwithstanding  
12 the provisions of AS 44.62.560, orders of the commission may not be appealed to the  
13 superior court. Consistent with AS 22.05.010(b), final decisions of the commission  
14 may be appealed to the supreme court, and other orders may be reviewed by the  
15 supreme court as provided by the Alaska Rules of Appellate Procedure.

16 (b) A finding by the commission concerning the weight to be accorded a  
17 witness's testimony, including medical testimony and reports, is conclusive even if the  
18 evidence is conflicting or susceptible to contrary conclusions. The commission's  
19 findings of fact may be reversed on appeal if not supported by substantial evidence in  
20 light of the whole record.

21 \* **Sec. 67.** AS 23.30.130 is amended to read:

22 **Sec. 23.30.130. Modification of awards.** (a) **A party in interest or the**  
23 **director may petition to modify a compensation order** [UPON ITS OWN  
24 INITIATIVE, OR UPON THE APPLICATION OF ANY PARTY IN INTEREST] on  
25 the ground of a change in conditions, including, for the purposes of AS 23.30.175, a  
26 change in residence, or because of a mistake in **a** [ITS] determination of a **material**  
27 **fact.** **An administrative law judge** [, THE BOARD] may, before one year after the  
28 date of the last payment of compensation benefits under AS 23.30.180, 23.30.185,  
29 23.30.190, 23.30.200, or 23.30.215, whether or not a compensation order has been  
30 issued, or before one year after the rejection of a claim, **act on the petition and**  
31 review a compensation case under the procedure prescribed **with** [IN] respect **to** [OF]

1 claims in AS 23.30.110. Under AS 23.30.110, an administrative law judge [THE  
2 BOARD] may issue a new compensation order that [WHICH] terminates, continues,  
3 reinstates, increases, or decreases the compensation, or award compensation.

4 (b) A new order does not affect compensation previously paid, except that an  
5 award increasing the compensation rate may be made effective from the date of the  
6 injury, and, if part of the compensation due or to become due is unpaid, an award  
7 decreasing the compensation rate may be made effective from the date of the injury,  
8 and payment made earlier in excess of the decreased rate shall be deducted from the  
9 unpaid compensation, in the manner the administrative law judge [BOARD]  
10 determines.

11 \* **Sec. 68.** AS 23.30.135 is amended to read:

12 **Sec. 23.30.135. Procedure before the division [BOARD].** (a) **The director**  
13 **in** [IN] making **a decision on** an investigation or inquiry or conducting a hearing,  
14 [THE BOARD] is not bound by common law or statutory rules of evidence or by  
15 technical or formal rules of procedure, except as provided by this chapter. The  
16 **director** [BOARD] may make **an** [ITS] investigation or inquiry or conduct **a** [ITS]  
17 hearing in the manner **that** [BY WHICH IT] may best ascertain the rights of the  
18 parties. **For purposes of investigation under AS 23.30.011, 23.30.040, 23.30.075,**  
19 **23.30.080, 23.30.085, 23.30.090, 23.30.140, 23.30.155(i), 23.30.155(k),**  
20 **23.30.155(m), 23.30.170, 23.30.240, and 23.30.249(d), the director may subpoena**  
21 **witnesses, administer or cause to be administered oaths, and may examine or**  
22 **cause to be examined books, papers and records relating to the questions under**  
23 **investigation. The superior court shall enforce the subpoenas on application by**  
24 **the director in the manner provided in AS 44.62.590.** Declarations of a deceased  
25 employee concerning the injury **with** [IN] respect to which the investigation or inquiry  
26 is being made or the hearing conducted shall be received in evidence and are, if  
27 corroborated by other evidence, sufficient to establish the injury.

28 (b) All testimony given during a hearing before the **director** [BOARD] shall  
29 be recorded, but need not be transcribed unless further review is initiated. Hearings  
30 before the **director** [BOARD] shall be open to the public.

31 \* **Sec. 69.** AS 23.30.140 is amended to read:

1           **Sec. 23.30.140. Appointment of guardian by court.** The **director**  
 2 [BOARD] may require the appointment of a guardian or other representative by a  
 3 competent court for any person who is mentally incompetent or a minor to receive  
 4 compensation payable to the person under this chapter and to exercise the powers  
 5 granted to or to perform the duties required of the person under this chapter. If the  
 6 **director** [BOARD] does not require the appointment of a guardian to receive the  
 7 compensation of a minor, appointment for this purpose is not necessary.

8 \* **Sec. 70.** AS 23.30.145(a) is amended to read:

9           (a) Fees for legal services rendered **with** [IN] respect to a claim are not valid  
 10 unless approved by the **administrative law judge** [BOARD, AND THE FEES MAY  
 11 NOT BE LESS THAN 25 PER CENT ON THE FIRST \$1,000 OF  
 12 COMPENSATION OR PART OF THE FIRST \$1,000 OF COMPENSATION, AND  
 13 10 PER CENT OF ALL SUMS IN EXCESS OF \$1,000 OF COMPENSATION].  
 14 When [THE BOARD ADVISES THAT] a claim has been controverted, in whole or in  
 15 part, [THE BOARD MAY DIRECT THAT THE] fees for legal services **may** be paid  
 16 by the employer or carrier in addition to compensation awarded; the fees may be  
 17 allowed only on the amount of compensation controverted and awarded. When [THE  
 18 BOARD ADVISES THAT] a claim has not been controverted, but [FURTHER  
 19 ADVISES THAT] bona fide legal services have been rendered **with** [IN] respect to  
 20 the claim, then the **administrative law judge** [BOARD] shall direct the payment of  
 21 the fees out of the compensation awarded. In determining the amount of fees the  
 22 **administrative law judge** [BOARD] shall take into consideration the nature, length,  
 23 and complexity of the services performed, transportation charges, and the benefits  
 24 resulting from the services to the compensation beneficiaries.

25 \* **Sec. 71.** AS 23.30.145(b) is amended to read:

26           (b) If an employer fails to file timely notice of controversy or fails to pay  
 27 compensation or medical and related benefits within 15 days after it becomes due or  
 28 otherwise resists the payment of compensation or medical and related benefits and if  
 29 the claimant has employed an attorney in the successful prosecution of the claim, **an**  
 30 **administrative law judge** [THE BOARD] shall make an award to reimburse the  
 31 claimant for the costs in the proceedings, including [A] reasonable attorney **fees**

1 [FEE]. The award is in addition to the compensation or medical and related benefits  
2 ordered.

3 \* **Sec. 72.** AS 23.30.155(a) is amended to read:

4 (a) Compensation under this chapter shall be paid periodically, promptly, and  
5 directly to the person entitled to it, without an award, except where liability to pay  
6 compensation is controverted by the employer. To controvert a claim, the employer  
7 must file a notice, on a form prescribed by the **director** [BOARD], stating

8 (1) that the right of the employee to compensation is controverted;

9 (2) the name of the employee;

10 (3) the name of the employer;

11 (4) the date of the alleged injury or death; and

12 (5) the type of compensation and all grounds upon which the right to  
13 compensation is controverted.

14 \* **Sec. 73.** AS 23.30.155(b) is amended to read:

15 (b) The first installment of compensation becomes due on the 14th day after  
16 the employer has knowledge of the injury or death. On this date all compensation then  
17 due shall be paid. Subsequent compensation shall be paid in installments, every 14  
18 days, except where **an administrative law judge** [THE BOARD] determines that  
19 payment in installments should be made monthly or at some other period.

20 \* **Sec. 74.** AS 23.30.155(c) is amended to read:

21 (c) The insurer or adjuster shall notify the **division** [BOARD] and the  
22 employee on a form prescribed by the **director** [BOARD] that the payment of  
23 compensation has begun or has been increased, decreased, suspended, terminated,  
24 resumed, or changed in type. An initial report shall be filed with the **division**  
25 [BOARD] and sent to the employee within 28 days after the date of issuing the first  
26 payment of compensation. If at any time 21 days or more pass and no compensation  
27 payment is issued, a report notifying the **division** [BOARD] and the employee of the  
28 termination or suspension of compensation shall be filed with the **division** [BOARD]  
29 and sent to the employee within 28 days after the date the last compensation payment  
30 was issued. A report shall also be filed with the **division** [BOARD] and sent to the  
31 employee within 28 days after the date of issuing a payment increasing, decreasing,

1 resuming, or changing the type of compensation paid. If the **division** [BOARD] and  
 2 the employee are not notified within the 28 days prescribed by this subsection for  
 3 reporting, the insurer or adjuster shall pay a civil penalty of \$100 for the first day plus  
 4 \$10 for each day **after the first day** [THEREAFTER] that the notice was not given.  
 5 Total penalties under this subsection may not exceed \$1,000 for a failure to file a  
 6 required report. Penalties assessed under this subsection are eligible for reduction  
 7 under (m) of this section. A penalty assessed under this subsection after penalties  
 8 have been reduced under (m) of this section shall be increased by 25 percent and shall  
 9 bear interest at the rate established under AS 45.45.010.

10 \* **Sec. 75.** AS 23.30.155(d) is amended to read:

11 (d) If the employer controverts the right to compensation, the employer shall  
 12 file with the **division** [BOARD] and send to the employee a notice of controversion on  
 13 or before the 21st day after the employer has knowledge of the alleged injury or death.  
 14 If the employer controverts the right to compensation after payments have begun, the  
 15 employer shall file with the **division** [BOARD] and send to the employee a notice of  
 16 controversion within seven days after an installment of compensation payable without  
 17 an award is due. When payment of temporary disability benefits is controverted solely  
 18 on the grounds that another employer or another insurer of the same employer may be  
 19 responsible for all or a portion of the benefits, the most recent employer or insurer  
 20 who is party to the claim and who may be liable shall make the payments during the  
 21 pendency of the dispute. When a final determination of liability is made, any  
 22 reimbursement required, including interest at the statutory rate, and all costs and  
 23 **attorney** [ATTORNEYS'] fees incurred by the prevailing employer, shall be made  
 24 within 14 days **after** [OF] the determination.

25 \* **Sec. 76.** AS 23.30.155(e) is amended to read:

26 (e) If any installment of compensation payable without an award is not paid  
 27 within seven days after it becomes due, as provided in (b) of this section, there shall be  
 28 added to the unpaid installment an amount equal to 25 percent of it. This additional  
 29 amount shall be paid at the same time as, and in addition to, the installment, unless  
 30 notice is filed under (d) of this section or unless the nonpayment is excused by **an**  
 31 **administrative law judge** [THE BOARD] after a showing by the employer that,

1 owing to conditions over which the employer had no control, the installment could not  
2 be paid within the period prescribed for the payment.

3 \* **Sec. 77.** AS 23.30.155(f) is amended to read:

4 (f) If compensation payable under the terms of an award is not paid within 14  
5 days after it becomes due, there shall be added to that unpaid compensation an amount  
6 equal to 25 percent of it, which shall be paid at the same time as, but in addition to, the  
7 compensation, unless review of the compensation order making the award is had as  
8 provided in AS 23.30.125 and **payment is stayed by an order of the commission**  
9 **[INTERLOCUTORY INJUNCTION STAYING PAYMENTS IS ALLOWED BY**  
10 **THE COURT].**

11 \* **Sec. 78.** AS 23.30.155(h) is amended to read:

12 (h) The **director may initiate an investigation, have a medical examination**  
13 **performed at the division's expense, or file a petition on a disputed matter for**  
14 **hearing** [BOARD MAY UPON ITS OWN INITIATIVE] at any time in a case in  
15 which payments are being made with or without an award, where right to  
16 compensation is controverted, or where payments of compensation have been  
17 increased, reduced, terminated, changed, or suspended, upon receipt of notice from a  
18 person entitled to compensation, or from the employer, that the right to compensation  
19 is controverted, or that payments of compensation have been increased, reduced,  
20 terminated, changed, or suspended. **The director may then** [, MAKE THE  
21 INVESTIGATIONS, CAUSE THE MEDICAL EXAMINATIONS TO BE MADE,  
22 OR HOLD THE HEARINGS, AND] take the further action **considered necessary to**  
23 **[WHICH IT CONSIDERS WILL]** properly protect the rights of all parties.

24 \* **Sec. 79.** AS 23.30.155(i) is amended to read:

25 (i) When the **director** [BOARD] considers it advisable, **the director** [IT] may  
26 require an employer to make a deposit with the Department of Revenue to secure the  
27 prompt and convenient payment of the compensation, and payments from the deposit  
28 upon an award shall be made upon order of the **director** [BOARD].

29 \* **Sec. 80.** AS 23.30.155(j) is amended to read:

30 (j) If an employer has made advance payments or overpayments of  
31 compensation, the employer is entitled to be reimbursed by withholding up to 20

1 percent out of each unpaid installment or installments of compensation due. More  
 2 than 20 percent of unpaid installments of compensation due may be withheld from an  
 3 employee only on approval of **an administrative law judge** [THE BOARD].

4 \* **Sec. 81.** AS 23.30.155(k) is amended to read:

5 (k) An injured employee [,] or, in **the** case of death, the employee's  
 6 dependents or personal representative [,] shall give receipts for payment of  
 7 compensation to the employer paying **the compensation**, [IT] and the employer shall  
 8 produce **the receipts** [THEM] for inspection by the **director** [BOARD], whenever  
 9 required.

10 \* **Sec. 82.** AS 23.30.155(m) is amended to read:

11 (m) On or before March 1 of each year, the insurer or adjuster shall file a  
 12 verified annual report on a form prescribed by the **director** [BOARD] stating the total  
 13 amount of all compensation by type, the number of claims received and the percentage  
 14 controverted, medical, and related benefits, vocational rehabilitation expenses, legal  
 15 fees, including a separate total of fees paid to attorneys and fees paid for the other  
 16 costs of litigation, and penalties paid on all claims during the preceding calendar year.  
 17 If the annual report is timely and complete when received by the **division** [BOARD]  
 18 and provides accurate information about each category of payments, the **director**  
 19 [COMMISSIONER] shall review the timeliness of the insurer's or adjuster's reports  
 20 filed during the preceding year under (c) of this section. If, during the preceding year,  
 21 the insurer or adjuster filed at least 99 percent of the reports on time, the penalties  
 22 assessed under (c) of this section shall be waived. If, during the preceding year, the  
 23 insurer or adjuster filed at least 97 percent of the reports on time, 75 percent of the  
 24 penalties assessed under (c) of this section shall be waived. If, during the preceding  
 25 year, the insurer or adjuster filed 95 percent of the reports on time, 50 percent of the  
 26 penalties assessed under (c) of this section shall be waived. If, during the preceding  
 27 year, the insurer's or adjuster's reports have not been filed on time at least 95 percent  
 28 of the time, none of the penalties assessed under (c) of this section shall be waived.  
 29 The penalties that are not waived are due and payable when the insurer or adjuster  
 30 receives notification from the **director** [COMMISSIONER] regarding the timeliness  
 31 of the reports. If the annual report is not filed by March 1 of each year, the insurer or

1 adjuster shall pay a civil penalty of \$100 for the first day the annual report is late [.]  
 2 and \$10 for each additional day the report is late. If the annual report is incomplete  
 3 when filed, the insurer or adjuster shall pay a civil penalty of \$1,000.

4 \* **Sec. 83.** AS 23.30.155(o) is amended to read:

5 (o) The **director** [BOARD] shall promptly notify the division of insurance if  
 6 **an administrative law judge** [THE BOARD] determines that the employer's insurer  
 7 has frivolously or unfairly controverted compensation due under this chapter. After  
 8 receiving notice from the **director** [BOARD], the division of insurance shall  
 9 determine if the insurer has committed an unfair claim settlement practice under  
 10 AS 21.36.125.

11 \* **Sec. 84.** AS 23.30.170(a) is amended to read:

12 (a) In case of default by the employer in the payment of compensation due  
 13 under an award of compensation for a period of 30 days after the compensation is due,  
 14 the person to whom the compensation is payable may, within one year after the  
 15 default, **file a petition with the division** [APPLY TO THE BOARD MAKING THE  
 16 COMPENSATION ORDER] for a supplementary order declaring the amount of the  
 17 default. After **the completion of any** investigation **the director considers necessary,**  
 18 **and upon** [.] notice [.] and hearing, as provided in AS 23.30.110, **an administrative**  
 19 **law judge may** [THE BOARD SHALL] make a supplementary order declaring the  
 20 amount of the default. The order shall be filed in the same manner as the  
 21 compensation order.

22 \* **Sec. 85.** AS 23.30.170(b) is amended to read:

23 (b) If the payment in default is an installment of the award, **an administrative**  
 24 **law judge has** [THE BOARD MAY, IN ITS] discretion **to** [.] declare the whole of the  
 25 award as the amount in default. The **petitioner** [APPLICANT] may file a certified  
 26 copy of the supplementary order with the clerk of the superior court. The  
 27 supplementary order is final. The court shall, upon the filing of the copy, enter  
 28 judgment for the amount declared in default by the supplementary order if it is in  
 29 accordance with law. Any time after a supplementary order **is filed** [BY THE  
 30 BOARD], the attorney general, when requested to do so by the **director**  
 31 [COMMISSIONER], shall take appropriate action to **ensure** [ASSURE] collection of

1 the defaulted payments.

2 \* **Sec. 86.** AS 23.30.175(a) is amended to read:

3 (a) The weekly rate of compensation for disability or death may not exceed  
 4 the maximum compensation rate, may not be less than 22 percent of the maximum  
 5 compensation rate, and initially may not be less than \$110. However, if **an**  
 6 **administrative law judge** [THE BOARD] determines that the employee's spendable  
 7 weekly wages are less than \$110 a week as computed under AS 23.30.220, or less than  
 8 22 percent of the maximum compensation rate a week in the case of an employee who  
 9 has furnished documentary proof of the employee's wages, **the administrative law**  
 10 **judge** [IT] shall issue an order adjusting the weekly rate of compensation to a rate  
 11 equal to the employee's spendable weekly wages. If the employer can verify that the  
 12 employee's spendable weekly wages are less than 22 percent of the maximum  
 13 compensation rate, the employer may adjust the weekly rate of compensation to a rate  
 14 equal to the employee's spendable weekly wages without an order of **an**  
 15 **administrative law judge** [THE BOARD]. If the employee's spendable weekly  
 16 wages are greater than 22 percent of the maximum compensation rate, but 80 percent  
 17 of the employee's spendable weekly wages is less than 22 percent of the maximum  
 18 compensation rate, the employee's weekly rate of compensation shall be 22 percent of  
 19 the maximum compensation rate. Prior payments made in excess of the adjusted rate  
 20 shall be deducted from the unpaid compensation in the manner **an administrative law**  
 21 **judge** [THE BOARD] determines. In any case, the employer shall pay timely  
 22 compensation. In this subsection, "maximum compensation rate" means 120 percent  
 23 of the average weekly wage, calculated under (d) of this section, applicable on the date  
 24 of injury of the employee.

25 \* **Sec. 87.** AS 23.30.175(b) is amended to read:

26 (b) The following rules apply to benefits payable to recipients not residing in  
 27 the state at the time compensation benefits are payable:

28 (1) the weekly rate of compensation shall be calculated by multiplying  
 29 the recipient's weekly compensation rate calculated under AS 23.30.180, 23.30.185,  
 30 23.30.190, 23.30.200, or 23.30.215 [,] by the ratio of the cost of living of the area in  
 31 which the recipient resides to the cost of living in this state;

1 (2) the calculation required by (1) of this subsection does not apply if  
 2 the recipient is absent from the state for medical or rehabilitation services not  
 3 reasonably available in the state;

4 (3) if the gross weekly earnings of the recipient and the resulting  
 5 compensation rate are determined under AS 23.30.220(a)(6), (7), or (10), the  
 6 calculation required by this subsection applies only to the portion of the recipient's  
 7 weekly compensation rate attributable to wages earned in the state;

8 (4) application of this subsection may not reduce the weekly  
 9 compensation rate to less than \$154 a week, except as provided in (a) of this section;

10 **(5) application of (1) - (4) of this subsection may not result in**  
 11 **raising a recipient's weekly compensation rate to an amount that exceeds the**  
 12 **weekly compensation rate that the recipient would have received if the recipient**  
 13 **had been residing in the state.**

14 \* **Sec. 88.** AS 23.30.175(c) is amended to read:

15 (c) The **department** [BOARD] shall provide by regulation for the  
 16 determination and comparison of living costs for this state and the other areas in which  
 17 recipients reside and for the annual redetermination and comparison of these costs.

18 \* **Sec. 89.** AS 23.30.180(a) is amended to read:

19 (a) In **the** case of total disability adjudged to be permanent, 80 percent of the  
 20 injured employee's spendable weekly wages shall be paid to the employee during the  
 21 continuance of the total disability. If a permanent partial disability award has been  
 22 made before a permanent total disability determination, permanent total disability  
 23 benefits must be reduced by the amount of the permanent partial disability award,  
 24 adjusted for inflation, in a manner determined by **an administrative law judge** [THE  
 25 BOARD]. Loss of both hands, [OR] both arms, [OR] both feet, [OR] both legs, or  
 26 both eyes, or of any two of them, in the absence of conclusive proof to the contrary,  
 27 constitutes permanent total disability. In all other cases, permanent total disability is  
 28 determined in accordance with the facts. In making this determination the market for  
 29 the employee's services shall be **the**

30 (1) area of residence;

31 (2) area of last employment;

1 (3) [THE] state of residence; and

2 (4) [THE] State of Alaska.

3 \* **Sec. 90.** AS 23.30.190(b) is amended to read:

4 (b) All determinations of the existence and degree of permanent impairment  
5 shall be made strictly and solely under the whole person determination as set out in the  
6 American Medical Association Guides to the Evaluation of Permanent Impairment,  
7 except that an impairment rating may not be rounded to the next five percent. The  
8 **department** [BOARD] shall adopt a supplementary recognized schedule for injuries  
9 that cannot be rated by use of the American Medical Association Guides.

10 \* **Sec. 91.** AS 23.30.190(d) is amended to read:

11 (d) When a new edition of the American Medical Association Guides  
12 described in (b) of this section is published, the **director** [BOARD] shall, not later  
13 than 90 days after the last day of the month in which the new edition is published, hold  
14 an open meeting under AS 44.62.310 to select the date on which the new edition will  
15 be used to make all determinations required under (b) of this section. The date  
16 selected by the **director** [BOARD] for using the new edition may not be later than 90  
17 days after the last day of the month in which the new edition is published. After the  
18 meeting, the **director** [BOARD] shall issue a public notice announcing the date  
19 selected. The requirements of AS 44.62.010 - 44.62.300 do not apply to the selection  
20 or announcement of the date under this subsection.

21 \* **Sec. 92.** AS 23.30.200(b) is amended to read:

22 (b) The wage-earning capacity of an injured employee is determined by the  
23 actual spendable weekly wage of the employee if the actual spendable weekly wage  
24 fairly and reasonably represents the wage-earning capacity of the employee. **An**  
25 **administrative law judge** [THE BOARD] may, in the interest of justice, fix the  
26 wage-earning capacity that is reasonable, having due regard **for** [TO] the nature of the  
27 injury, the degree of physical impairment, the usual employment, and other factors or  
28 circumstances in the case that may affect the capacity of the employee to earn wages  
29 in a disabled condition, including the effect of disability as it may naturally extend into  
30 the future.

31 \* **Sec. 93.** AS 23.30.205(e) is amended to read:

1 (e) The second injury fund may not be bound as to any question of law or fact  
 2 by reason of an award or an adjudication to which it was not a party or in relation to  
 3 which the **director** [COMMISSIONER] was not notified at least three weeks before  
 4 the award or adjudication, that the fund might be subject to liability for the injury or  
 5 death.

6 \* **Sec. 94.** AS 23.30.205(f) is amended to read:

7 (f) An employer or the employer's carrier shall notify the **director**  
 8 [COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT] of any  
 9 possible claim against the second injury fund as soon as practicable, but in no event  
 10 later than 100 weeks after the employer or the employer's carrier have knowledge of  
 11 the injury or death.

12 \* **Sec. 95.** AS 23.30.215(d) is amended to read:

13 (d) Compensation under this chapter to aliens not residents, or about to  
 14 become nonresidents, of the United States or Canada is the same in amount as  
 15 provided for residents, except that dependents in a foreign country are limited to  
 16 widow or widower and child or children, or, if there is no widow or widower and child  
 17 or children, to surviving father or mother whom the employee has supported, either  
 18 wholly or in part, for a period of one year before the date of injury. **An**  
 19 **administrative law judge, upon petition of the director, the employer, or** [THE  
 20 BOARD, AT ITS OPTION, OR UPON THE APPLICATION OF] the insurance  
 21 carrier, may commute all future installments of compensation to be paid to an alien  
 22 dependent who is not a resident of the United States or Canada by paying or causing to  
 23 be paid to the alien dependent one-half of the commuted amount of the future  
 24 installments of compensation as determined by the **administrative law judge**  
 25 [BOARD].

26 \* **Sec. 96.** AS 23.30.220(a) is amended to read:

27 (a) Computation of compensation under this chapter shall be on the basis of an  
 28 employee's spendable weekly wage at the time of injury. An employee's spendable  
 29 weekly wage is the employee's gross weekly earnings minus payroll tax deductions.  
 30 An employee's gross weekly earnings shall be calculated as follows:

31 (1) if, at the time of injury, the employee's earnings are calculated by

1 the week, the weekly amount is the employee's gross weekly earnings;

2 (2) if, at the time of injury, the employee's earnings are calculated by  
3 the month, the employee's gross weekly earnings are the monthly earnings multiplied  
4 by 12 and divided by 52;

5 (3) if, at the time of injury, the employee's earnings are calculated by  
6 the year, the employee's gross weekly earnings are the yearly earnings divided by 52;

7 (4) if, at the time of injury, the

8 (A) employee's earnings are calculated by the day, **by the** hour,  
9 or by the output of the employee, the employee's gross weekly earnings are the  
10 employee's earnings most favorable to the employee computed by dividing by  
11 13 the employee's earnings, including overtime or premium pay, earned during  
12 any period of 13 consecutive calendar weeks within the 52 weeks immediately  
13 preceding the injury;

14 (B) employee has been employed for less than 13 calendar  
15 weeks immediately preceding the injury, then, notwithstanding (1) - (3) of this  
16 subsection and (A) of this paragraph, the employee's gross weekly earnings are  
17 computed by determining the amount that the employee would have earned,  
18 including overtime or premium pay, had the employee been employed by the  
19 employer for 13 calendar weeks immediately preceding the injury and dividing  
20 this sum by 13;

21 (5) if, at the time of injury, the employee's earnings have not been  
22 fixed or cannot be ascertained, the employee's earnings for the purpose of calculating  
23 compensation are the usual wage for similar services when the services are rendered  
24 by paid employees;

25 (6) if, at the time of injury, the employment is exclusively seasonal or  
26 temporary, then, notwithstanding (1) - (5) of this subsection, the gross weekly earnings  
27 are 1/50 of the total wages that the employee has earned from all occupations during  
28 the 12 calendar months immediately preceding the injury;

29 (7) when the employee is working under concurrent contracts with two  
30 or more employers, the employee's earnings from all employers **are** [IS] considered as  
31 if earned from the employer liable for compensation;

1 (8) if an employee when injured is a minor, an apprentice, or a trainee  
 2 in a formal training program, as determined by an administrative law judge [THE  
 3 BOARD], whose wages, under normal conditions, would increase during the period of  
 4 disability, the projected increase may be considered by the administrative law judge  
 5 [BOARD] in computing the gross weekly earnings of the employee;

6 (9) if the employee is injured while performing duties as a volunteer  
 7 ambulance attendant, volunteer police officer, or volunteer fire fighter, then,  
 8 notwithstanding (1) - (6) of this subsection, the gross weekly earnings for calculating  
 9 compensation shall be the minimum gross weekly earnings paid a full-time ambulance  
 10 attendant, police officer, or fire fighter employed in the political subdivision where the  
 11 injury occurred, or, if the political subdivision has no full-time ambulance attendants,  
 12 police officers, or fire fighters, at a reasonable figure previously set by the political  
 13 subdivision to make this determination, but, in no case, may the gross weekly earnings  
 14 for calculating compensation be less than the minimum wage computed on the basis of  
 15 40 hours work a [PER] week;

16 (10) if an employee is entitled to compensation under AS 23.30.180  
 17 and an administrative law judge [THE BOARD] determines that calculation of the  
 18 employee's gross weekly earnings under (1) - (7) of this subsection does not fairly  
 19 reflect the employee's earnings during the period of disability, the administrative law  
 20 judge [BOARD] shall determine gross weekly earnings by considering the nature of  
 21 the employee's work, work history, and resulting disability, but compensation  
 22 calculated under this paragraph may not exceed the employee's gross weekly earnings  
 23 at the time of injury.

24 \* **Sec. 97.** AS 23.30.240 is amended to read:

25 **Sec. 23.30.240. Officers of corporations, municipal corporations, and**  
 26 **nonprofit corporations as employees.** An executive officer elected or appointed and  
 27 empowered in accordance with the charter and bylaws of a corporation, other than an  
 28 official of a municipal corporation or a charitable, religious, educational, or other  
 29 nonprofit corporation, is an employee of the corporation under this chapter. However,  
 30 an executive officer of a corporation may waive coverage under this chapter, subject  
 31 to the approval of the director [COMMISSIONER OF LABOR AND WORKFORCE

1 DEVELOPMENT], notwithstanding AS 23.30.245(b). Notwithstanding any other  
 2 provision of this chapter, an executive officer of a municipal corporation or of a  
 3 charitable, religious, educational, or other nonprofit corporation may be brought  
 4 within the coverage of its insurance contract by the corporation by specifically  
 5 including the officer in the contract of insurance. The election to bring an executive  
 6 officer within the coverage continues in force for the period the contract of insurance  
 7 is in effect. During that period, an executive officer brought within the coverage of  
 8 the insurance contract is an employee of the corporation under this chapter.

9 \* **Sec. 98.** AS 23.30 is amended by adding a new section to read:

10 **Sec. 23.30.249. Fraudulent acts and false or misleading statements.** (a) An  
 11 employer or insurer may petition for an order to reimburse a payment and the cost of  
 12 compensation, medical treatment, or other benefit provided under this chapter  
 13 obtained by a fraudulent act or false or misleading statement or representation. If an  
 14 administrative law judge, after a hearing as provided by AS 23.30.110, finds by a  
 15 preponderance of the evidence that a person has obtained a payment, compensation,  
 16 medical treatment, or another benefit provided under this chapter by a fraudulent act  
 17 or by knowingly making a false or misleading statement or representation for the  
 18 purpose of obtaining that benefit or payment, the administrative law judge shall order  
 19 that person to make full reimbursement of the payment or cost of all benefits obtained.  
 20 Upon entry of an order authorized under this subsection, the administrative law judge  
 21 shall also order that person to pay all reasonable costs and attorney fees incurred by  
 22 the employer and the employer's carrier in obtaining an order under this section and in  
 23 defending any claim made for benefits under this chapter. If a person fails to comply  
 24 with an order requiring reimbursement of payment or cost of benefits, and payment of  
 25 costs and attorney fees, the employer may declare the person in default and proceed to  
 26 collect any sum due as provided under AS 23.30.170(b) and (c).

27 (b) Except as provided in (c) of this section, a person is not liable for civil  
 28 damages for filing a report with or furnishing other information, whether written or  
 29 oral, concerning a suspected, anticipated, or completed fraudulent act or false or  
 30 misleading statements or representation to

31 (1) law enforcement officials or their agents and employees;

1                   (2) the division of workers' compensation, the division of insurance in  
2 the Department of Commerce, Community, and Economic Development, or an agency  
3 in another state that regulates insurance or workers' compensation;

4                   (3) an insurer or adjuster or its agents, employees, or designees, or the  
5 risk manager of a self-insured employer under this chapter.

6                   (c) The provisions of (b) of this section do not preclude liability for civil  
7 damages as described in (b) of this section if the liability arose as a result of reckless,  
8 wilful, or intentional misconduct.

9                   (d) An insurer, an adjuster, or a risk manager of a self-insured employer that  
10 has reason to believe that a fraudulent workers' compensation demand or claim has  
11 been made against it shall send the director a report disclosing information that the  
12 director may require. An insurer or an adjuster or its employee or agent, or a risk  
13 manager of a self-employed employer, or another person acting in good faith is not  
14 civilly liable for damages resulting from the filing of the report or the furnishing of  
15 information required by this section or by the director.

16                   (e) The director may investigate facts reported under this section and may  
17 refer facts indicating a possible violation of law to the appropriate prosecutor or  
18 agency. If the director determines that there is credible evidence that a person  
19 obtained a payment, compensation, medical treatment, or other benefit provided under  
20 this chapter by a fraudulent act or false or misleading statement or representation as  
21 provided in (a) of this section, the director shall notify the affected employer, insurer,  
22 and adjuster upon conclusion of the investigation. If the fraudulent act or false or  
23 misleading statement or representation was perpetrated against the division, the  
24 director may file a petition as provided in AS 23.30.110 for an order of forfeiture  
25 against the person, precluding, in whole or in part, the person from future payment,  
26 compensation, medical treatment, or other benefit provided under this chapter.

27                   (f) The papers, reports, documents, and evidence received under this section or  
28 in an investigation arising from information received under this section are not subject  
29 to public inspection for so long as the director considers confidentiality to be in the  
30 public interest or reasonably necessary to complete an investigation or protect the  
31 person investigated from unwarranted injury. Papers, reports, documents, and

1 evidence relative to an investigation under this section are confidential and not subject  
 2 to subpoena unless, after notice to the director and a hearing, a court determines that  
 3 the director would not be unduly hindered by public inspection.

4 (g) If the material that the director seeks to obtain is located outside the state,  
 5 the material may be made available to the director to examine at the place where the  
 6 material is located. The director may designate representatives, including officials of  
 7 the state in which the material is located, to inspect the material on behalf of the  
 8 director. The director may respond to a request from an official of another state for  
 9 similar material.

10 (h) In this section, "fraudulent act" includes

11 (1) to knowingly pretend injury or disability, with intent to defraud or  
 12 obtain a benefit under this chapter;

13 (2) to knowingly conceal, suppress, destroy, remove, or alter records,  
 14 with intent to defraud or obtain a benefit under this chapter;

15 (3) to knowingly assist or prepare another person to submit a false or  
 16 misleading statement in support of a claim for benefits under this chapter with reckless  
 17 disregard that the person is not entitled to benefits under this chapter;

18 (4) to use force against a person, damage the property of a person, or  
 19 threaten a person with intent to improperly influence the opinion of a witness, a  
 20 physician, or other health care provider;

21 (5) except as otherwise authorized under this chapter, to knowingly  
 22 confer, offer to confer, solicit, agree to accept, or accept property, services, or a  
 23 benefit

24 (A) to refer an employee to a physician or other health care  
 25 provider; or

26 (B) for providing medical treatment, services, medicines, or  
 27 supplies to an employee if the property, services, or benefit is in addition to  
 28 payment by the employer, insurer, or adjuster allowed under this chapter.

29 \* **Sec. 99.** AS 23.30.250 is repealed and reenacted to read:

30 **Sec. 23.30.250. Penalty for fraudulent acts or false or misleading**  
 31 **statements or representations.** (a) A person is guilty of theft by deception as defined

1 in AS 11.46.180, and may be punished as provided by AS 11.46.120 - 11.46.150, and  
2 is civilly liable to a person adversely affected by the conduct, if the person

3 (1) knowingly makes a false or misleading statement, representation,  
4 or submission related to an injury, compensation, or benefit under this chapter;

5 (2) knowingly assists, abets, solicits, or conspires in making a false or  
6 misleading submission affecting the payment, coverage, or other benefit under this  
7 chapter;

8 (3) knowingly misclassifies employees or engages in deceptive leasing  
9 practices for the purpose of evading full payment of workers' compensation insurance  
10 premiums; or

11 (4) employs or contracts with a natural person or business organization  
12 to coerce or encourage an individual to file a fraudulent compensation claim.

13 (b) In this section,

14 (1) "benefit" means a payment, compensation, medical treatment,  
15 service, product, entitlement, or right available under this chapter;

16 (2) "knowingly" has the meaning given in AS 11.81.900.

17 \* **Sec. 100.** AS 23.30.260 is amended to read:

18 **Sec. 23.30.260. Penalty for receiving unapproved fees and soliciting.** A  
19 person is guilty of a misdemeanor [,] and, upon conviction, is punishable for each  
20 offense by a fine of not more than \$1,000 [,] or by imprisonment for not more than one  
21 year, or by both, if the person

22 (1) receives a fee, other consideration, or a gratuity on account of **any**  
23 services rendered **for representation or advice with** [IN] respect to a claim, unless  
24 the consideration or gratuity is approved by the **administrative law judge, the**  
25 **commission,** [BOARD] or the court; or

26 (2) makes it a business to solicit employment for a lawyer or for **the**  
27 **person with** [ONESELF IN] respect to a claim or award for compensation.

28 \* **Sec. 101.** AS 23.30.260 is amended by adding a new subsection to read:

29 (b) Notwithstanding AS 23.30.145 and (a) of this section, approval of a fee is  
30 not required if the fee does not exceed \$300 and is a one-time-only charge to an  
31 employee by an attorney licensed in this state who performed legal services with

1 respect to the employee's claim but did not enter an appearance.

2 \* **Sec. 102.** AS 23.30.395(28) is amended to read:

3 (28) "self-insurer" means an employer who, instead of insuring  
4 liability under this chapter as it provides, elects to pay directly the compensation  
5 provided for, and who has furnished to the **division** [BOARD] satisfactory proof of  
6 the employer's financial ability to make the direct payments;

7 \* **Sec. 103.** AS 23.30.395 is amended by adding new paragraphs to read:

8 (35) "administrative law judge " means an administrative law judge  
9 employed or retained by the office of administrative hearings (AS 44.64.010) who  
10 meets the qualifications under AS 23.30.112 to conduct hearings of workers'  
11 compensation claims and petitions and conduct other hearings and proceedings under  
12 this chapter;

13 (36) "commission" means the Workers' Compensation Appeals  
14 Commission;

15 (37) "director" means the director of the division of workers'  
16 compensation;

17 (38) "division" means the division of workers' compensation.

18 \* **Sec. 104.** AS 39.25.110 is amended by adding a new paragraph to read:

19 (40) the chair of the Workers' Compensation Appeals Commission  
20 (AS 23.30.007).

21 \* **Sec. 105.** AS 39.25.120(c)(14) is amended to read:

22 (14) the rehabilitation administrator of the **division of workers'**  
23 **compensation** [WORKERS' COMPENSATION BOARD];

24 \* **Sec. 106.** AS 39.50.200(b)(31) is amended to read:

25 (31) Workers' Compensation **Appeals Commission (AS 23.30.007)**  
26 [BOARD (AS 23.30.005)];

27 \* **Sec. 107.** AS 44.62.330(a)(15) is amended to read:

28 (15) **division of workers' compensation and its director** [ALASKA  
29 WORKERS' COMPENSATION BOARD], where procedures are not otherwise  
30 expressly provided by **AS 23.30** ([THE] Alaska Workers' Compensation Act);

31 \* **Sec. 108.** AS 44.64.020(a), as enacted by sec. 2, HCS CSSB 203(FIN), is amended to

1 read:

2 (a) The chief administrative law judge shall

3 (1) supervise the office;

4 (2) employ administrative staff, who shall be in the classified service;

5 (3) employ administrative law judges, who shall be in the partially  
6 exempt service;

7 (4) preside over administrative hearings handled by the office or, based  
8 upon the qualifications and expertise of the administrative law judges, assign  
9 administrative law judges to preside over hearings, and protect, support, and enhance  
10 the decisional independence of the administrative law judges;

11 (5) establish and implement performance standards, including  
12 provision for timeliness, and peer review programs for administrative law judges  
13 employed or retained by the office;

14 (6) make available and facilitate training and continuing education  
15 programs and services in administrative procedure, administrative adjudication,  
16 substantive law, alternate dispute resolution, and technical matters for administrative  
17 law judges and other administrative adjudicators;

18 (7) survey administrative hearing participants and use other methods to  
19 monitor the quality of administrative hearings held by the office and other state  
20 agencies, and submit to the governor and the legislature on January 31 of each year the  
21 results of the survey along with a report that includes a description of the activities of  
22 the office and recommendations for statutory changes that may be needed in relation  
23 to the administrative hearings held by the office or other state agencies;

24 (8) review and comment on regulations proposed by state agencies to  
25 govern procedures in administrative hearings;

26 (9) enter into contracts as necessary to carry out the functions of the  
27 office;

28 (10) annually prepare and submit to the commissioner of  
29 administration a budget for the office for the next fiscal year that shall include and  
30 separately identify funding for training and continuing education; a copy of the budget  
31 submitted to the commissioner under this paragraph shall also be submitted to the

1 Finance Committee of each house of the legislature; and

2 (11) after consulting with affected agencies, adopt regulations under  
 3 AS 44.62 (Administrative Procedure Act) to carry out the duties of the office and  
 4 implement this chapter, **except for regulations governing the conduct of workers'**  
 5 **compensation hearings and proceedings under AS 23.30, which are under the**  
 6 **exclusive jurisdiction of the Workers' Compensation Appeals Commission**  
 7 **(AS 23.30.007).**

8 \* **Sec. 109.** AS 44.64.030(a), as enacted by sec. 3, HCS CSSB 203(FIN), is amended by  
 9 adding a new paragraph to read:

10 (36) AS 23.30 (workers' compensation).

11 \* **Sec. 110.** AS 44.64.040(a), as enacted by sec. 3, HCS CSSB 203(FIN), is amended to  
 12 read:

13 (a) An administrative law judge must be admitted to practice law in this state  
 14 and must have been admitted to practice in this state for at least two years before being  
 15 employed or retained with the office. The chief administrative law judge shall  
 16 establish additional qualifications for administrative law judges employed or retained  
 17 by the office and for those administrative law judges that may be assigned to particular  
 18 types of cases. An administrative law judge is in the partially exempt service.  
 19 Notwithstanding AS 39.25.120(b), full-time administrative law judges employed by  
 20 the office are subject to the personnel rules adopted under AS 39.25.150(7), (15), and  
 21 (16). **An administrative law judge assigned to workers' compensation hearings or**  
 22 **other proceedings under AS 23.30 shall be compensated at Range 24 of the salary**  
 23 **schedule set out in AS 39.27.011(a) for Anchorage, Alaska.**

24 \* **Sec. 111.** AS 21.39.155(c) is repealed.

25 \* **Sec. 112.** AS 23.30.395(3) is repealed.

26 \* **Sec. 113.** The uncodified law of the State of Alaska is amended by adding a new section  
 27 to read:

28 APPLICABILITY. The amendment to AS 23.30.175(b) made by sec. 87 of this Act  
 29 applies to an injury occurring on or after the effective date of sec. 87 of this Act.

30 \* **Sec. 114.** The uncodified law of the State of Alaska is amended by adding a new section  
 31 to read:

1           TRANSITION: TERMS OF BOARD OF GOVERNORS MEMBERS. (a)  
 2 Notwithstanding sec. 7 of this Act, the director of insurance in the Department of Commerce,  
 3 Community, and Economic Development shall designate members of the board of governors  
 4 for the Alaska Insurance Guaranty Association to serve staggered initial terms in the manner  
 5 provided in AS 39.05.055.

6           (b) Terms of members of the board of governors for the Alaska Insurance Guaranty  
 7 Association serving on September 1, 2004, expire on September 2, 2004, but a member of the  
 8 board of governors on September 1, 2004, may continue to serve until a successor is  
 9 appointed if the member meets the standards set out in sec. 7 of this Act for the position in  
 10 which the member was serving on September 1, 2004. Members of the board of governors  
 11 for the Alaska Insurance Guaranty Association serving on September 1, 2004, may apply for  
 12 reappointment to the board by submitting a request to the director of insurance.

13       \* **Sec. 115.** The uncodified law of the State of Alaska is amended by adding a new section  
 14 to read:

15           TRANSITION: CONTINUANCE OF ALASKA WORKERS' COMPENSATION  
 16 BOARD; PENDING CASES. (a) Notwithstanding the repeal and reenactment of  
 17 AS 23.30.005 by sec. 11 of this Act, the Alaska Workers' Compensation Board, established  
 18 under AS 23.30.005 as it existed on the day before the effective date of sec. 11 of this Act,  
 19 continues in existence for 45 days after the effective date of sec. 11 of this Act for the limited  
 20 purpose described in (b) of this section. Members serving on the Alaska Workers'  
 21 Compensation Board on the day before the effective date of sec. 11 of this Act continue to  
 22 serve as members of that board for the 45 days after the effective date of sec. 11 of this Act.  
 23 Appointments may not be made to that board on or after the effective date of sec. 11 of this  
 24 Act.

25           (b) A case heard by the board before the effective date of sec. 11 of this Act and  
 26 awaiting a decision by the board on the day before the effective date of sec. 11 of this Act  
 27 shall be decided by the board, and a decision or order shall be issued, not later than the 45th  
 28 day after the effective date of sec. 11 of this Act, under the applicable statutes and regulations  
 29 in effect on the day before the effective date of sec. 11 of this Act.

30           (c) In this section, "board" means the Alaska Workers' Compensation Board  
 31 established under AS 23.30.005 as that section existed on the day before the effective date of

1 sec. 11 of this Act.

2 \* **Sec. 116.** The uncodified law of the State of Alaska is amended by adding a new section  
3 to read:

4 TRANSITION: INITIAL TERMS OF MEMBERS OF WORKERS'  
5 COMPENSATION APPEALS COMMISSION. (a) Notwithstanding AS 23.30.007(e),  
6 enacted by sec. 12 of this Act, the terms of the initially appointed representative members of  
7 the Workers' Compensation Appeals Commission, established by AS 23.30.007 enacted by  
8 sec. 12 of this Act, shall be set by the governor to achieve staggered terms in the manner  
9 provided in AS 39.05.055.

10 \* **Sec. 117.** The uncodified law of the State of Alaska is amended by adding a new section  
11 to read:

12 TRANSITION: STAFF. (a) In order to ensure the smooth transfer of functions in the  
13 shortest possible time, for a period of six months after the effective date of this section, the  
14 director may, with the approval of the commissioner of labor and workforce development and  
15 the chair of the commission, temporarily assign division employees to the commission and the  
16 commission may reimburse the division for the temporarily assigned employees. Division  
17 employees temporarily assigned to the commission shall continue in the same position and  
18 rate of pay for the duration of the temporary assignment as the employees held at the division.

19 (c) In this section,

20 (1) "commission" means the Workers' Compensation Appeals Commission  
21 established by AS 23.30.007, enacted by sec. 12 of this Act;

22 (2) "director" means the director of the division of workers' compensation in  
23 the Department of Labor and Workforce Development;

24 (3) "division" means the division of workers' compensation in the Department  
25 of Labor and Workforce Development.

26 \* **Sec. 118.** The uncodified law of the State of Alaska is amended by adding a new section  
27 to read:

28 TRANSITIONAL PROVISIONS. (a) Litigation, investigations, and other  
29 proceedings pending under a law amended or repealed by this Act, or in connection with  
30 functions transferred by this Act, continue in effect and may be continued and completed,  
31 notwithstanding a transfer or amendment or repeal provided for in this Act.

1 (b) Certificates, decisions, and orders issued under authority of a law amended or  
 2 repealed by this Act remain in effect for the term issued, or until revoked, vacated, or  
 3 otherwise modified under the provisions of this Act. Contracts, rights, liabilities, and  
 4 obligations created by or under a law amended or repealed by this Act, and in effect on the  
 5 day before the effective date of this section, remain in effect notwithstanding this Act's taking  
 6 effect. Records, equipment, appropriations, and other property of agencies of the state whose  
 7 functions are transferred under this Act shall be transferred to implement the provisions of  
 8 this Act.

9 (c) Regulations adopted under AS 23.30 and in effect on the day before the effective  
 10 date of this section continue in effect, and may be applied by the Alaska Workers'  
 11 Compensation Board, during the 45 days after the effective date of sec. 11 of this Act.

12 \* **Sec. 119.** The uncodified law of the State of Alaska is amended by adding a new section  
 13 to read:

14 TRANSITION: REGULATIONS. (a) The Department of Labor and Workforce  
 15 Development and the director of insurance in the Department of Commerce, Community, and  
 16 Economic Development each may proceed to adopt regulations necessary to implement their  
 17 respective provisions of this Act. The regulations take effect under AS 44.62 (Administrative  
 18 Procedure Act), but not before the effective date of the statutory changes.

19 (b) In order to provide for the procedures and other administrative matters necessary  
 20 to ensure the on-going implementation of the state's workers' compensation laws to meet the  
 21 urgent needs of injured workers, and thus ensure the preservation of the public peace, health,  
 22 safety, or general welfare, the Workers' Compensation Appeals Commission established by  
 23 AS 23.30.007, enacted by sec. 12 of this Act, may adopt under AS 23.30.008, enacted by  
 24 sec. 12 of this Act, as emergency regulations, the regulations necessary to implement the  
 25 changes made by this Act.

26 \* **Sec. 120.** The uncodified law of the State of Alaska is amended by adding a new section  
 27 to read:

28 CONDITIONAL EFFECT. Sections 2, 8 - 86, 88 - 110, 112, 115 - 118, and 119(b) of  
 29 this Act take effect only if HCS CSSB 203(FIN), passed by the Twenty-Third Alaska State  
 30 Legislature, is enacted into law.

31 \* **Sec. 121.** Section 119(a) of this Act takes effect immediately under AS 01.10.070(c).

1     \* **Sec. 122.** Sections 1, 3 - 7, 87, 111, 113, and 114 of this Act take effect September 1,  
2     2004.

3     \* **Sec. 123.** If they take effect under sec. 120 of this Act, secs. 2, 8 - 86, 88 - 110, 112, 115 -  
4     118, and 119(b) of this Act take effect July 1, 2005.