

CS FOR SENATE BILL NO. 130(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/1/05

Referred: Judiciary, Finance

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a special deposit for workers' compensation and employers' liability
2 insurers; relating to assigned risk pools; relating to workers' compensation insurers;
3 stating the intent of the legislature, and setting out limitations, concerning the
4 interpretation, construction, and implementation of workers' compensation laws;
5 relating to the Alaska Workers' Compensation Board; assigning certain Alaska
6 Workers' Compensation Board functions to the division of workers' compensation in the
7 Department of Labor and Workforce Development and to that department, and
8 authorizing the board to delegate administrative and enforcement duties to the division;
9 providing for workers' compensation hearing officers in workers' compensation
10 proceedings; relating to workers' compensation medical benefits and to charges for and
11 payment of fees for the medical benefits; relating to agreements that discharge workers'
12 compensation liability; relating to workers' compensation awards; relating to

1 reemployment benefits and job dislocation benefits; relating to coordination of workers'
 2 compensation and certain disability benefits; relating to division of workers'
 3 compensation records; relating to release of treatment records; relating to an employer's
 4 failure to insure and keep insured or provide security; relating to workers'
 5 compensation proceedings; providing for a maximum amount for the cost-of-living
 6 adjustment for workers' compensation benefits; relating to attorney fees with respect to
 7 workers' compensation; providing for the department to enter into contracts with
 8 nonprofit organizations to provide information services and legal representation to
 9 injured employees; providing for administrative penalties for employers uninsured or
 10 without adequate security for workers' compensation; relating to fraudulent acts or
 11 false or misleading statements in workers' compensation and penalties for the acts or
 12 statements; providing for members of a limited liability company to be included as an
 13 employee for purposes of workers' compensation; establishing a workers' compensation
 14 benefits guaranty fund; relating to the second injury fund; making conforming
 15 amendments; providing for a study and report by the medical services review
 16 committee; and providing for an effective date."

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

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

20 LEGISLATIVE INTENT. It is the intent of the legislature by secs. 2 - 4 of this Act

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

23 (2) to reduce the overall costs of workers' compensation premiums to
 24 employers.

25 * **Sec. 2.** AS 21.09.090 is amended by adding new subsections to read:

1 (e) In addition to and separate from the deposit required under (b) of this
 2 section, an insurer that is authorized to transact workers' compensation and employer's
 3 liability insurance as defined in AS 21.12.070(a)(3) shall deposit in this state, through
 4 the director, for the protection of persons in this state covered by workers'
 5 compensation insurance issued by the insurer, an amount not less than the greater of

6 (1) \$100,000; or

7 (2) an amount equal to the sum of the following less any credit for
 8 reinsurance that the insurer may take under (f) of this section:

9 (A) the aggregate of the present value at four percent interest of
 10 the total determined and estimated future loss and loss expense payment upon
 11 each claim incurred under a policy written in this state more than three years
 12 before the date of computation; and

13 (B) for each of the three years before the date of computation,
 14 65 percent of the earned premium for the year less each loss and loss expense
 15 payment made upon a claim incurred in the corresponding year, except that the
 16 amount for any year may not be less than the present value at four percent
 17 interest of the total determined and estimated future loss and loss expense
 18 payment upon each claim incurred under a policy written in this state that year.

19 (f) In calculating the deposit amount required under (e)(2) of this section, an
 20 insurer may take a credit for reinsurance if the reinsurer has deposited in trust in this
 21 state, through the director, an amount at least equal to the credit to be taken, and not
 22 less than the aggregate of all credits taken by each insurer under this subsection.

23 * **Sec. 3.** AS 21.24.130 is amended by adding a new subsection to read:

24 (f) If an insurer is found to be insolvent by a proceeding under AS 21.78 or by
 25 a court of competent jurisdiction in another state, the director shall take control of the
 26 insurer's deposit made under AS 21.09.090(e). The deposit assets shall be released, at
 27 the discretion of the director, to the Alaska Insurance Guaranty Association
 28 (AS 21.80) to reimburse for a valid loss and loss expense claim payment made by the
 29 association that is within the purpose of the deposit. The director shall pay the
 30 remaining deposit assets to the receiver, conservator, rehabilitator, or liquidator of the
 31 insurer, or to another properly designated official who succeeds to the management

1 and control of the insurer's assets, after the director determines that all loss and loss
 2 expense liabilities have been paid that were incurred on the insurer's policies written in
 3 this state for which the deposit was required.

4 * **Sec. 4.** AS 21.39.155(a) is amended to read:

5 (a) The director may require insurers, except a reciprocal insurer formed [BY
 6 AND INSURING ONLY A GROUP OF MUNICIPALITIES OR NONPROFIT
 7 PUBLIC UTILITIES] under AS 21.75 [OR A RECIPROCAL INSURER FORMED
 8 UNDER AS 21.75 TO PROVIDE MARINE INSURANCE], as a condition of writing
 9 a line of insurance dealing with medical malpractice or workers' compensation, to
 10 participate in an assigned risk pool if the director finds that mandatory carrier
 11 participation is in the public interest.

12 * **Sec. 5.** AS 23.05.067(a) is amended to read:

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

18 (1) for each employer,

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

22 (B) the service fee is 2.9 percent of all payments reported to the
 23 Alaska Workers' Compensation Board under AS 23.30.155(m) or (n) [,
 24 EXCEPT SECOND INJURY FUND PAYMENTS]; and

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

30 * **Sec. 6.** AS 23.30 is amended by adding a new section to read:

31 **Sec. 23.30.001. Intent of the legislature and construction of chapter.** It is

1 the intent of the legislature that

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

5 (2) workers' compensation cases shall be decided on their merits
6 except where otherwise provided by statute;

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

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

11 * **Sec. 7.** AS 23.30.005(a) is amended to read:

12 (a) The Alaska Workers' Compensation Board consists of a southern panel of
13 three members sitting for the first judicial district, a northern panel of three members
14 sitting for the second and fourth judicial districts, four southcentral panels of three
15 members each sitting for the third judicial district, and one panel of three members
16 that may sit in any judicial district. Each panel must include the commissioner of
17 labor and workforce development or **a hearing officer designated to represent** [THE
18 DESIGNATED REPRESENTATIVE OF] the commissioner, a representative of
19 industry, and a representative of labor. The latter two members of each panel shall be
20 appointed by the governor and are subject to confirmation by a majority of the
21 members of the legislature in joint session. **The board shall by regulation provide**
22 **procedures to avoid conflicts and the appearance of impropriety in hearings.**

23 * **Sec. 8.** AS 23.30.005(b) is amended to read:

24 (b) The commissioner shall act as **chair** [CHAIRMAN] and executive officer
25 of the board and **chair** [CHAIRMAN] of each panel. **The commissioner may**
26 **designate a representative to act for the commissioner as chair and executive**
27 **officer of the board. The commissioner may designate hearing officers to serve as**
28 **chairs of panels for hearing claims** [IF THE COMMISSIONER DESIGNATES A
29 REPRESENTATIVE TO ACT FOR THE COMMISSIONER, THE
30 REPRESENTATIVE SHALL SERVE IN THAT CAPACITY ON THE BOARD
31 AND ON EACH PANEL].

1 * **Sec. 9.** AS 23.30.005 is amended by adding new subsections to read:

2 (m) The department may, in its discretion, contract with a nonprofit
3 organization to provide information services and legal representation to employees in
4 proceedings under this chapter.

5 (n) The board may by regulation delegate authority to the director to assist the
6 board in administering and enforcing this chapter.

7 * **Sec. 10.** AS 23.30.012 is amended to read:

8 **Sec. 23.30.012. Agreements in regard to claims. (a)** At any time after
9 death, or after 30 days subsequent to the date of the injury, the employer and the
10 employee or the beneficiary or beneficiaries, as the case may be, have the right to
11 reach an agreement in regard to a claim for injury or death under this chapter [IN
12 ACCORDANCE WITH THE APPLICABLE SCHEDULE IN THIS CHAPTER], but
13 a memorandum of the agreement in a form prescribed by the **director** [BOARD] shall
14 be filed with the **division** [BOARD]. Otherwise, the agreement is void for any
15 purpose. **Except as provided in (b) of this section, an agreement filed with the**
16 **division discharges the liability of the employer for the compensation,**
17 **notwithstanding the provisions of AS 23.30.130, 23.30.160, and 23.30.245, and is**
18 **enforceable as a compensation order.**

19 **(b) If the claimant or beneficiary is not represented by an attorney**
20 **licensed to practice in this state or the beneficiary is a minor or incompetent, the**
21 **agreement shall be reviewed by a panel of the board.** If approved by the board, the
22 agreement is enforceable the same as an order or award of the board and discharges
23 the liability of the employer for the compensation notwithstanding the provisions of
24 AS 23.30.130, 23.30.160, and 23.30.245. The agreement shall be approved by the
25 board only when the terms conform to the provisions of this chapter, and, if it involves
26 or is likely to involve permanent disability, the board may require an impartial medical
27 examination and a hearing in order to determine whether or not to approve the
28 agreement. **A** [THE BOARD MAY APPROVE] lump-sum **settlement may be**
29 **approved** [SETTLEMENTS] when it appears to be to the best interest of the
30 employee or beneficiary or beneficiaries.

31 * **Sec. 11.** AS 23.30.015(e) is amended to read:

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

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

4 (A) the expenses incurred by the employer with respect to the
5 action or compromise, including a reasonable attorney fee determined by the
6 board;

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

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

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

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

22 * **Sec. 12.** AS 23.30.041(a) is amended to read:

23 (a) The **director** [BOARD] shall select and employ a reemployment benefits
24 administrator. The **director** [BOARD] may authorize the administrator to select and
25 employ additional staff. The administrator is in the partially exempt service under
26 AS 39.25.120.

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

28 (b) The administrator shall

29 (1) enforce regulations adopted by the board to implement this section;

30 (2) recommend regulations for adoption by the board that establish
31 performance and reporting criteria for rehabilitation specialists;

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

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

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

10 (A) the estimated and actual cost of each active rehabilitation
11 plan;

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

13 (C) a status report on all individuals requesting, waiving,
14 beginning, completing, or terminating a reemployment benefits program
15 including

16 (i) reasons for denial, waiver, suspension, or
17 termination;

18 (ii) dates of completion and [A] return to work; and

19 (iii) other information required by the director
20 [DATE];

21 (D) the cost of reemployment benefits;

22 (E) status reports of all individuals who successfully
23 completed a reemployment plan that includes

24 (i) the plan's occupational goal and whether the
25 individual obtained work after completion in the planned or
26 another occupation; and

27 (ii) the individual's employment status six months,
28 one year, and two years after reemployment plan completion;

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

31 (7) promote awareness among physicians, adjusters, injured workers,

1 employers, employees, attorneys, training providers, and rehabilitation specialists of
2 the reemployment program established in this subsection.

3 * **Sec. 14.** AS 23.30.041(c) is repealed and reenacted to read:

4 (c) An employee and an employer may stipulate to the employee's eligibility
5 for reemployment benefits at any time. If an employee suffers a compensable injury
6 and, as a result of the injury, the employee is totally unable, for 45 consecutive days,
7 to return to the employee's employment at the time of injury, the administrator shall
8 notify the employee of the employee's rights under this section within 14 days after the
9 45th day. If the employee is totally unable to return to the employee's employment for
10 60 consecutive days as a result of the injury, the employee or employer may request an
11 eligibility evaluation. The administrator may approve the request if the employee's
12 injury may permanently preclude the employee's return to the employee's occupation
13 at the time of the injury. If the employee is totally unable to return to the employee's
14 employment at the time of the injury for 90 consecutive days as a result of the injury,
15 the administrator shall, without a request, order an eligibility evaluation unless a
16 stipulation of eligibility was submitted. If the administrator approves a request or
17 orders an evaluation, the administrator shall, on a rotating and geographic basis, select
18 a rehabilitation specialist from the list maintained under (b)(6) of this section to
19 perform the eligibility evaluation.

20 * **Sec. 15.** AS 23.30.041(f) is amended to read:

21 (f) An employee is not eligible for reemployment benefits if

22 (1) the employer offers employment within the employee's predicted
23 post-injury physical capacities at a wage equivalent to at least the state minimum wage
24 under AS 23.10.065 or 75 percent of the worker's gross hourly wages at the time of
25 injury, whichever is greater, and the employment prepares the employee to be
26 employable in other jobs that exist in the labor market;

27 (2) **the employee previously declined the development of a**
28 **reemployment benefits plan under (g) of this section, received a job dislocation**
29 **benefit under (g)(2) of this section, and returned to work in the same or similar**
30 **occupation in terms of physical demands required of the employee at the time of**
31 **the previous injury;**

1 **(3)** the employee has been previously rehabilitated in a former
 2 worker's compensation claim and returned to work in the same or similar occupation
 3 in terms of physical demands required of the employee at the time of the previous
 4 injury; or

5 **(4)** [(3)] at the time of medical stability, no permanent impairment is
 6 identified or expected.

7 * **Sec. 16.** AS 23.30.041(g) is amended to read:

8 (g) Within 15 days after the employee receives the administrator's notification
 9 of eligibility for benefits, an employee [WHO DESIRES TO USE THESE
 10 BENEFITS] shall give written notice **under oath, on a form provided by the**
 11 **division, to the administrator and the employer of the employee's election to**
 12 **either use the reemployment benefits or to accept a job dislocation benefit under**
 13 **(2) of this subsection. The following apply to an election under this subsection:**

14 **(1) an employee who elects to use the reemployment benefits also**
 15 **shall notify the** employer of the employee's selection of a rehabilitation specialist who
 16 shall provide a complete reemployment benefits plan; **failure** [. FAILURE] to give
 17 notice **of selection of a rehabilitation specialist** required by this **paragraph**
 18 [SUBSECTION] constitutes noncooperation under (n) of this section; **if** [. IF] the
 19 employer disagrees with the employee's choice of rehabilitation specialist to develop
 20 the plan and the disagreement cannot be resolved, then the administrator shall assign a
 21 rehabilitation specialist; **the** [. THE] employer and employee each have one right of
 22 refusal of a rehabilitation specialist;

23 **(2) an employee who elects to accept a job dislocation benefit in**
 24 **place of reemployment benefits and who has been given a permanent partial**
 25 **impairment rating by a physician shall be paid**

26 **(A) \$5,000 if the employee's permanent partial impairment**
 27 **rating is greater than zero and less than 15 percent;**

28 **(B) \$8,000 if the employee's permanent partial impairment**
 29 **rating is 15 percent or greater but less than 30 percent; or**

30 **(C) \$13,500 if the employee's permanent partial**
 31 **impairment rating is 30 percent or greater;**

1 **(3) the form provided by the division for election must specify that**
 2 **the employee understands the scope of the benefits and rights being waived by**
 3 **the election; the administrator shall serve a copy of the executed election form on**
 4 **the parties within 10 days after receiving the form from the employee; the**
 5 **election and waiver of unchosen benefits is effective upon service to the parties; a**
 6 **waiver and election effective under this subsection discharges the employer's**
 7 **liability for the benefits or rights under this section that were not elected; a**
 8 **waiver may not be modified under AS 23.30.130.**

9 * **Sec. 17.** AS 23.30.041(j) is amended to read:

10 (j) The employee, rehabilitation specialist, and [THE] employer shall sign the
 11 reemployment benefits plan. If the employer and employee fail to agree on a
 12 reemployment plan, either party may submit a reemployment plan for approval to the
 13 administrator. **The** [; THE] administrator shall approve or deny a plan within 14 days
 14 after the plan is submitted. **Within** [; WITHIN] 10 days **after** [OF] the decision,
 15 either party may seek review of the decision by requesting a hearing under
 16 AS 23.30.110. **The** [; THE] board shall uphold the decision of the administrator
 17 unless evidence is submitted supporting an allegation of abuse of discretion on the part
 18 of the administrator. **The** [; THE] board shall render a decision within 30 days after
 19 completion of the hearing.

20 * **Sec. 18.** AS 23.30.041(p) is amended to read:

21 (p) When the United States Department of Labor publishes a new edition,
 22 revision, or replacement for the "Selected Characteristics of Occupations Defined in
 23 the Revised Dictionary of Occupational Titles" referred to in (e) of this section, the
 24 **director** [BOARD] shall, not later than 90 days after the last day of the month in
 25 which the new edition, revision, or replacement standard is published, hold an open
 26 meeting under AS 44.62.310 to select the **proposed** date on which the new edition,
 27 revision, or replacement standard will be implemented to make all eligibility
 28 determinations required under (e) of this section. The date selected by the
 29 **department** [BOARD] for implementing the new edition, revision, or replacement
 30 standard may not be later than 90 days after the last day of the month in which the new
 31 edition, revision, or replacement standard is published. After the meeting, the

1 **director** [BOARD] shall issue a public notice announcing the date selected **by the**
2 **department**. The requirements of AS 44.62.010 - 44.62.300 do not apply to the
3 selection or announcement of the date under this subsection.

4 * **Sec. 19.** AS 23.30.041(q) is amended to read:

5 (q) Notwithstanding AS 23.30.012, after medical stability has been determined
6 and a physician has predicted that the employee may have a permanent impairment
7 that may cause the employee to have permanent physical capacities that are less than
8 the physical demands of the employee's job at the time of injury, an employee may
9 waive any benefits or rights under this section, including an eligibility evaluation and
10 benefits related to a reemployment plan. To waive any benefits or rights under this
11 section, an employee must file a statement under oath with the **division** [BOARD] to
12 notify the parties of the waiver and to specify the scope of benefits or rights that the
13 employee seeks to waive. The statement must be on a form prescribed or approved by
14 the **director** [BOARD]. The **division** [BOARD] shall serve the notice of waiver on
15 all parties to the claim within 10 days after filing. The waiver is effective upon service
16 to the party. A waiver effective under this subsection discharges the liability of the
17 employer for the benefits or rights contained in this section. The waiver may not be
18 modified under AS 23.30.130.

19 * **Sec. 20.** AS 23.30.080(d) is amended to read:

20 (d) If an employer fails to insure or provide security as required by
21 AS 23.30.075, the board may issue a stop order **at the request of the division**
22 prohibiting the use of employee labor by the employer until the employer insures or
23 provides security as required by AS 23.30.075. The failure of an employer to file
24 evidence of compliance as required by AS 23.30.085 creates a rebuttable presumption
25 that the employer has failed to insure or provide security as required by AS 23.30.075.
26 If an employer fails to comply with a stop order issued under this section, the board
27 shall assess a civil penalty of \$1,000 **a** [PER] day. The employer may not obtain a
28 public contract with the state or a political subdivision of the state for three years
29 following the violation of the stop order.

30 * **Sec. 21.** AS 23.30.080 is amended by adding new subsections to read:

31 (e) If a representative of the department investigates an employer's failure to

1 file the evidence of compliance required by AS 23.30.085 and, after investigation,
2 there is substantial evidence that the employer failed to insure or provide security as
3 required by AS 23.30.075, the representative shall inform the employer. The
4 representative may request the director to issue a stop order prohibiting the use of
5 employee labor by the employer until the employer insures or provides security as
6 required by AS 23.30.075. The director may issue a stop order, without a hearing,
7 based on the representative's investigation. The director shall dissolve a stop order
8 issued under this subsection upon receipt of substantial evidence that the employer is
9 insured or has provided security as required by AS 23.30.075(a). If an employer fails
10 to comply with a stop order issued under this subsection, the division may petition the
11 board to assess a civil penalty. The board may assess a civil penalty of \$1,000 per
12 day. An employer who is assessed a penalty under this subsection may not obtain a
13 public contract with the state or a political subdivision of the state for the three years
14 following violation of the stop order.

15 (f) If an employer fails to insure or provide security as required by
16 AS 23.30.075, the division may petition the board to assess a civil penalty of up to
17 \$1,000 for each employee for each day an employee is employed while the employer
18 failed to insure or provide the security required by AS 23.30.075. The failure of an
19 employer to file evidence of compliance as required by AS 23.30.085 creates a
20 rebuttable presumption that the employer failed to insure or provide security as
21 required by AS 23.30.075.

22 (g) If an employer fails to pay a civil penalty order issued under (d), (e), or (f)
23 of this section within seven days after the date of service of the order upon the
24 employer, the director may declare the employer in default. The director shall file a
25 certified copy of the penalty order and declaration of default with the clerk of the
26 superior court. The court shall, upon the filing of the copy of the order and
27 declaration, enter judgment for the amount declared in default if it is in accordance
28 with law. Anytime after a declaration of default, the attorney general shall, when
29 requested to do so by the director, take appropriate action to ensure collection of the
30 defaulted payment. Review of the judgment may be had as provided under the Alaska
31 Rules of Civil Procedure. Final proceedings to execute the judgment may be had by

1 writ of execution.

2 * **Sec. 22.** AS 23.30 is amended by adding a new section to read:

3 **Sec. 23.30.082. Workers' compensation benefits guaranty fund.** (a) The
4 workers' compensation benefits guaranty fund is established in the general fund to
5 carry out the purposes of this section. The fund is composed of civil penalty payments
6 made by employers under AS 23.30.080, income earned on investment of the money
7 in the fund, money deposited in the fund by the department, and appropriations to the
8 fund. Money appropriated to the fund does not lapse. Amounts in the fund may be
9 appropriated for claims against the fund, for expenses directly related to fund
10 operations and claims, and for legal expenses.

11 (b) Every three months, the Department of Revenue shall provide the division
12 with a statement of the activities of, balances in, interest earned on, and interest
13 returned to the fund.

14 (c) Subject to the provisions of this section, an employee employed by an
15 employer who fails to meet the requirements of AS 23.30.075 and who fails to pay
16 compensation and benefits due to the employee under this chapter, may file a claim for
17 payment by the fund. In order to be eligible for payment, the claim form must be filed
18 within the same time, and in the same manner, as a workers' compensation claim. The
19 fund may assert the same defenses as an insured employer under this chapter.

20 (d) If the fund pays benefits to an employee under this section, the fund shall
21 be subrogated to all of the rights of the employee to the amount paid, and the
22 employee shall assign all right, title, and interest in that portion of the employee's
23 workers' compensation claim and any recovery under AS 23.30.015 to the fund.
24 Money collected by the division on the claim or recovery shall be deposited in the
25 fund.

26 (e) If the money deposited in the fund is insufficient at a given time to satisfy
27 a duly authorized claim against the fund, the fund shall, when sufficient money has
28 been deposited in the fund and appropriated, satisfy unpaid claims in the order in
29 which the claims were originally filed, without interest.

30 (f) The division may contract under AS 36.30 (State Procurement Code) with
31 a person for the person to adjust claims against the fund. The contract may cover one

1 or more claims.

2 (g) In this section, "fund" means the workers' compensation benefits guaranty
3 fund.

4 * **Sec. 23.** AS 23.30.095(j) is amended to read:

5 (j) The **commissioner shall** [BOARD MAY] appoint a medical services
6 review committee, or contract with an existing organization in the state or another
7 state, to assist and advise **the department and** the board in matters involving the
8 appropriateness, necessity, and cost of medical and related services provided under
9 this chapter.

10 * **Sec. 24.** AS 23.30.095 is amended by adding new subsections to read:

11 (n) A generic drug product must be used when dispensing a drug product to an
12 employee under this chapter unless the prescribing physician provides justification in
13 writing explaining the medical necessity for the name-brand drug product. The
14 department, by regulation, shall establish a preferred drug list and a procedure for
15 establishing medical necessity to depart from the list and to use a name-brand drug
16 product. In this subsection, "generic drug product" has the meaning given the term
17 "equivalent drug product" in AS 08.80.480.

18 (o) For purposes of this chapter, the medical treatment or service that the
19 nature of the injury or the process of recovery requires under (a) of this section means
20 treatment or service that is within the recommended guidelines set out in the American
21 College of Occupational and Environmental Medicine's Occupational Medicine
22 Practice Guidelines in effect at the time the treatment or service is provided. The
23 American College of Occupational and Environmental Medicine's Occupational
24 Medicine Practice Guidelines shall be presumed correct on the issue of the nature,
25 extent, and scope of medical treatment or services. For an injury not covered by the
26 American College of Occupational and Environmental Medicine's Occupational
27 Medicine Practice Guidelines, the treatment or service shall be in accordance with
28 standards based on other scientific, evidence-based medical treatment guidelines
29 generally recognized by the national medical community and adopted by the board by
30 regulation, and those standards shall also be presumed correct on the issue of the
31 nature, extent, and scope of medical treatment or services.

1 (p) The presumptions established under (o) of this section may be rebutted by
2 an employee's physician's written certification explaining

3 (1) the nature, extent, and scope of provided medical treatment or
4 service that is at variance with the applicable guidelines or standards; and

5 (2) the basis for the physician's conclusion that the provided medical
6 treatment or service at variance was reasonably required by the nature of the injury or
7 process of recovery.

8 * **Sec. 25.** AS 23.30 is amended by adding a new section to article 2 to read:

9 **Sec. 23.30.097. Fees for medical treatment and services; payment of bills.**

10 (a) All fees and other charges for medical treatment or service are subject to
11 regulation by the board consistent with this section. A fee or other charge for medical
12 treatment or service may not exceed the lesser of

13 (1) the usual, customary, and reasonable fees for the treatment or
14 service in the community in which it is rendered, not to exceed the fees in the fee
15 schedule specified by the board in its published bulletin dated December 15, 2003; or

16 (2) the payment made by the employer as negotiated by the provider
17 and the employer under (c) of this section.

18 (b) An employer, or group of employers, may establish a list of preferred
19 physicians and treatment service providers to provide medical, surgical, and other
20 attendance or treatment services to the employer's employees under this chapter;
21 however,

22 (1) the employee's right to chose the employee's attending physician
23 under AS 23.30.095(a) is not impaired;

24 (2) when given to the employee, the employer's preferred physician list
25 must clearly state that the list is voluntary, that the employee's choice is not restricted
26 to the list, that the employee's rights under this chapter are not impaired by choosing
27 an attending physician from the list, and that, if the employee chooses an attending
28 physician from the list, the employee may, in the manner provided in AS 23.30.095,
29 make one change of attending physician, from the list or otherwise; and

30 (3) establishment of a list of preferred physicians does not affect the
31 employer's choice of physician for an employer medical examination under

1 AS 23.30.095.

2 (c) An employer or group of employers may negotiate with physicians and
 3 other treatment service providers under this chapter to obtain reduced fees and service
 4 charges and may take the fees and charges into account when forming a list of
 5 preferred physicians and providers. In no event may an employer or group of
 6 employers attempt to influence the treatment, medical decisions, or permanent
 7 impairment ratings by physicians in the course of the negotiations regarding a
 8 preferred physician and provider fee list.

9 (d) An employer shall pay an employee's bills for medical treatment under this
 10 chapter, excluding prescription charges or transportation for medical treatment, within
 11 30 days after the date that the employer receives the provider's bill or a completed
 12 report as required by AS 23.30.095(c), whichever is later.

13 (e) Unless the employer controverts a charge, an employer shall reimburse an
 14 employee's prescription charges under this chapter within 30 days after the employer
 15 received the health care provider's completed report and an itemization of the
 16 prescription charges for the employee. Unless the employer controverts a charge, an
 17 employer shall reimburse transportation expenses for medical treatment under this
 18 chapter within 30 days after the employer received the health care provider's
 19 completed report and an itemization of the date, destination, and transportation
 20 expenses for each date of travel for medical treatment. If the employer does not plan
 21 to make or does not make payment or reimbursement in full as required by this
 22 subsection, the employer shall notify in writing the employee and the employee's
 23 health care provider that payment will not be timely made and the reason for the
 24 nonpayment. The notification must be provided on or before the date that payment is
 25 due under this subsection or (d) of this section.

26 (f) An employee may not be required to pay a fee or charge for medical
 27 treatment or service provided under this chapter.

28 * **Sec. 26.** AS 23.30.100(b) is amended to read:

29 (b) The notice must be in writing, contain the name and address of the
 30 employee, [AND] a statement of the time, place, nature, and cause of the injury or
 31 death, **and authority to release records of medical treatment for the injury or**

1 **death**, and be signed by the employee or by a person on behalf of the employee, or, in
 2 case of death, by a person claiming to be entitled to compensation for the death or by a
 3 person on behalf of that person.

4 * **Sec. 27.** AS 23.30.107(b) is amended to read:

5 (b) Medical or rehabilitation records in an employee's file maintained by the
 6 **division or held by the** board are not public records subject to public inspection and
 7 copying under AS 40.25. This subsection does not prohibit

8 (1) the reemployment benefits administrator, **the division**, the board,
 9 or the department from releasing medical or rehabilitation records in an employee's
 10 file, without the employee's consent, to a physician providing medical services under
 11 AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a
 12 governmental agency; or

13 (2) the quoting or discussing of medical or rehabilitation records
 14 contained in an employee's file during a hearing on a claim for compensation [,] or in
 15 a decision and order of the board.

16 * **Sec. 28.** AS 23.30.107 is amended by adding a new subsection to read:

17 (c) The division may not assemble, or provide information respecting,
 18 individual records for commercial purposes that are outside the scope of this chapter.

19 * **Sec. 29.** AS 23.30.122 is repealed and reenacted to read:

20 **Sec. 23.30.122. Credibility of witnesses.** The board has the sole power to
 21 determine the credibility of testimony presented by a witness. When credibility is
 22 disputed in a proceeding before the board, the board's determination of credibility
 23 must be supported by specific findings.

24 * **Sec. 30.** AS 23.30.175(b) is amended to read:

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

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

31 (2) the calculation required by (1) of this subsection does not apply if

1 the recipient is absent from the state for medical or rehabilitation services not
2 reasonably available in the state;

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

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

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

13 * **Sec. 31.** AS 23.30.175(c) is amended to read:

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

18 * **Sec. 32.** AS 23.30.205(e) is amended to read:

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

24 * **Sec. 33.** AS 23.30.205 is amended by adding a new subsection to read:

25 (g) Claims for reimbursement may not be submitted to the fund after
26 September 1, 2005. The fund shall continue to make reimbursement payments on
27 claims accepted before July 1, 2006, or ordered by the board, until the fund's liabilities
28 for the claim are extinguished.

29 * **Sec. 34.** AS 23.30 is amended by adding a new section to read:

30 **Sec. 23.30.224. Coordination of benefits.** (a) Notwithstanding other
31 provisions of this chapter, an employer's liability for payment of weekly compensation

1 under AS 23.30.180 or 23.30.185 to an employee eligible for a disability benefit under
2 AS 14.25.130, AS 39.35.400, or 39.35.410 may not exceed the lesser of

3 (1) the difference between the disability benefit payable to the
4 employee under AS 14.25.130, AS 39.35.400, or 39.35.410, converted to a weekly
5 basis, and 100 percent of the employee's spendable weekly wage as calculated under
6 AS 23.30.220; or

7 (2) the maximum compensation rate calculated under AS 23.30.175.

8 (b) An employer's liability for payment of compensation under
9 AS 23.30.041(k) to an employee eligible for a disability benefit payable under
10 AS 14.25.130, AS 39.35.400, or 39.35.410 may not exceed the lesser of

11 (1) the difference between the disability benefit payable to the
12 employee under AS 14.25.130, AS 39.35.400, or 39.35.410, converted to a weekly
13 basis, and 80 percent of the employee's spendable weekly wage as calculated under
14 AS 23.30.220; or

15 (2) 105 percent of the average weekly wage calculated under
16 AS 23.30.175(d).

17 (c) Notwithstanding other provisions of this chapter, the liability of an
18 employer for payment of compensation for an injury or illness under AS 23.30.180 or
19 23.30.185 to an employee who is covered by a union or group retirement system to
20 which the employer makes contributions under a collective bargaining agreement or
21 by membership in a welfare or pension plan or trust may not exceed the lesser of

22 (1) the difference between 100 percent of the employee's spendable
23 weekly wage and an amount equal to the disability benefit, disability pension, or
24 medical retirement benefit that the employee is eligible to receive as a result of the
25 injury or illness, as calculated on a weekly basis, under the retirement system or
26 welfare or pension plan or trust; or

27 (2) the maximum compensation rate calculated under AS 23.30.175.

28 (d) If the union or group retirement system, pension plan, or trust referred to in
29 (c) of this section provides by its terms that its benefits are precluded or reduced if
30 benefits are awarded under this chapter, the limitation provided in (c)(1) of this section
31 is not applicable to the extent of the amount precluded or reduced.

1 (e) Notwithstanding other provisions of this chapter, the liability of an
 2 employer for payment of compensation for an injury or illness under AS 23.30.041(k)
 3 to an employee who is covered by a union or group retirement system to which the
 4 employer makes contributions under a collective bargaining agreement or by
 5 membership in a welfare or pension plan or trust may not exceed the lesser of

6 (1) the difference between 80 percent of the employee's spendable
 7 weekly wage and an amount equal to the disability benefit, disability pension, or
 8 medical retirement benefit that the employee is eligible to receive as a result of the
 9 injury or illness, calculated on a weekly basis, under the retirement system or welfare
 10 or pension plan or trust; or

11 (2) 105 percent of the average weekly wage calculated under
 12 AS 23.30.175(d).

13 (f) If the union or group retirement system, pension plan, or trust referred to in
 14 (e) of this section provides by its terms that its benefits are precluded or reduced if
 15 benefits are awarded under this chapter, the limitation provided in (e)(1) of this section
 16 is not applicable to the extent of the amount precluded or reduced.

17 (g) If the employee receives a lump sum distribution of disability benefits,
 18 disability pension, or medical retirement benefits, the combined workers'
 19 compensation and weekly disability or medical retirement benefit specified in this
 20 section shall be calculated by assuming that the employee received weekly disability
 21 or medical retirement payments under the applicable plan from the date of eligibility
 22 for the disability benefit or medical retirement until the total of the weekly payments
 23 equals the amount of the lump sum, exclusive of that portion of the lump sum
 24 specifically set aside under the applicable plan for retraining expenses, medical and
 25 transportation expenses, and attorney fees or other legal costs.

26 * **Sec. 35.** AS 23.30.240 is amended to read:

27 **Sec. 23.30.240. Officers of corporations, municipal corporations and**
 28 **nonprofit corporations and members of limited liability companies as employees.**

29 An executive officer elected or appointed and empowered in accordance with the
 30 charter and bylaws of a corporation, other than an official of a municipal corporation
 31 or a charitable, religious, educational, or other nonprofit corporation, is an employee

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

12 * **Sec. 36.** AS 23.30.240 is amended by adding a new subsection to read:

13 (b) Except as provided in this subsection, a member of a limited liability
 14 company organized under AS 10.50 is not an employee of the company under this
 15 chapter. Notwithstanding any other provision of this chapter, a limited liability
 16 company may bring a member of the company within the coverage of the company's
 17 insurance contract by specifically including the member in the contract of insurance.
 18 The election to bring the member within the company's coverage continues in force
 19 for the period the contract of insurance is in effect. During that period, a member
 20 brought within the coverage of the insurance contract is an employee of the company
 21 under this chapter.

22 * **Sec. 37.** AS 23.30.247(c) is amended to read:

23 (c) This section may not be construed to prohibit an employer from requiring a
 24 prospective employee to fill out a preemployment questionnaire or application
 25 regarding the person's prior health or disability history as long as it is meant to
 26 [EITHER DOCUMENT WRITTEN NOTICE FOR SECOND INJURY FUND
 27 REIMBURSEMENT UNDER AS 23.30.205(c) OR] determine whether the employee
 28 has the physical or mental capacity to meet the documented physical or mental
 29 demands of the work.

30 * **Sec. 38.** AS 23.30 is amended by adding a new section to read:

31 **Sec. 23.30.249. Fraudulent acts and false or misleading statements. (a)**

1 An employer, insurer, or other person may petition for an order to reimburse a
 2 payment and the cost of compensation, medical treatment, or other benefit provided
 3 under this chapter obtained by a fraudulent act or false or misleading statement or
 4 representation. If the board, after a hearing as provided by AS 23.30.110, finds by a
 5 preponderance of the evidence that a person has obtained a payment, compensation,
 6 medical treatment, or another benefit provided under this chapter by a fraudulent act
 7 or by knowingly making a false or misleading statement or representation for the
 8 purpose of obtaining that benefit or payment, the board shall order that person to make
 9 full reimbursement of the payment or cost of all benefits obtained. Upon entry of an
 10 order authorized under this subsection, the board shall also order that person to pay all
 11 reasonable costs and attorney fees incurred in obtaining an order under this section and
 12 in defending a fraudulent claim made for benefits under this chapter. If a person fails
 13 to comply with an order requiring reimbursement of payment or cost of benefits and
 14 payment of costs and attorney fees, the employer, insurer, or other party may declare
 15 the person in default and proceed to collect any sum due in the same manner as
 16 provided under AS 23.30.170(b) and (c).

17 (b) Except as provided in (c) of this section, a person is not liable for civil
 18 damages for filing a report concerning a suspected, anticipated, or completed
 19 fraudulent act or a false or misleading statement or representation with, or for
 20 furnishing other information, whether written or oral, concerning a suspected,
 21 anticipated, or completed fraudulent act or false or misleading statements or
 22 representation to

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

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

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

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

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

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

19 (f) The papers, reports, documents, and evidence received under this section or
20 in an investigation arising from information received under this section are not subject
21 to public inspection for so long as the director considers confidentiality to be in the
22 public interest or reasonably necessary to complete an investigation or protect the
23 person investigated from unwarranted injury. Papers, reports, documents, and
24 evidence relative to an investigation under this section are confidential and not subject
25 to subpoena unless, after notice to the director and a hearing, a court determines that
26 the director would not be unduly hindered by public inspection.

27 (g) If the material that the director seeks to obtain is located outside the state,
28 the material may be made available to the director to examine at the place where the
29 material is located. The director may designate representatives, including officials of
30 the state in which the material is located, to inspect the material on behalf of the
31 director. The director may respond to a request from an official of another state for

1 similar material.

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

3 (1) to knowingly pretend injury or disability with intent to defraud or
4 obtain a benefit under this chapter;

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

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

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

13 (5) except as otherwise authorized under this chapter, to knowingly
14 confer, offer to confer, solicit, agree to accept, or accept property, services, or a
15 benefit

16 (A) to refer an employee to a physician or other health care
17 provider; or

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

21 * **Sec. 39.** AS 23.30.250 is amended to read:

22 **Sec. 23.30.250. Penalties for fraudulent or misleading acts.** (a) A person,
23 **including an employee, employer, physician, medical provider, or the**
24 **representative of a person** who (1) knowingly makes a false or misleading statement,
25 representation, or submission related to a benefit under this chapter; (2) knowingly
26 assists, abets, solicits, or conspires in making a false or misleading submission
27 affecting the payment, coverage, or other benefit under this chapter; (3) knowingly
28 misclassifies employees or engages in deceptive leasing practices for the purpose of
29 evading full payment of workers' compensation insurance premiums; or (4) employs
30 or contracts with a person or firm to coerce or encourage an individual to file a
31 fraudulent compensation claim is civilly liable to a person adversely affected by the

1 conduct, is guilty of theft by deception as defined in AS 11.46.180, and may be
2 punished as provided by AS 11.46.120 - 11.46.150.

3 (b) If the board, after a hearing, finds that a person has obtained compensation,
4 medical treatment, or another benefit provided under this chapter, **or that a provider**
5 **has received a payment**, by knowingly making a false or misleading statement or
6 representation for the purpose of obtaining that benefit **or payment**, the board shall
7 order that person to make full reimbursement of the cost of all benefits **and payments**
8 obtained. Upon entry of an order authorized under this subsection, the board shall also
9 order that person to pay all reasonable costs and attorney fees incurred by the
10 employer and the employer's carrier in obtaining an order under this section and in
11 defending any claim made for benefits under this chapter. If a person fails to comply
12 with an order of the board requiring reimbursement of compensation and payment of
13 costs and attorney fees, the employer may declare the person in default and proceed to
14 collect any sum due as provided under AS 23.30.170(b) and (c).

15 * **Sec. 40.** AS 23.30.250 is amended by adding a new subsection to read:

16 (c) A court may provide compensatory and punitive damages and attorney
17 fees to a prevailing party in a civil action under (a) or (b) of this section.

18 * **Sec. 41.** AS 23.30.260 is amended by adding a new subsection to read:

19 (b) Notwithstanding AS 23.30.145 and (a) of this section, approval of a fee is
20 not required if the fee does not exceed \$300 and is a one-time-only charge to an
21 employee by an attorney licensed in this state who performed legal services with
22 respect to the employee's claim but did not enter an appearance.

23 * **Sec. 42.** AS 23.30.395 is amended by adding new paragraphs to read:

24 (35) "commissioner" means the commissioner of labor and workforce
25 development;

26 (36) "department" means the Department of Labor and Workforce
27 Development;

28 (37) "director" means the director of the division of workers'
29 compensation in the department;

30 (38) "division" means the division of workers' compensation in the
31 department.

1 * **Sec. 43.** AS 37.05.146(c) is amended by adding a new paragraph to read:

2 (78) workers' compensation benefits guaranty fund (AS 23.30.082).

3 * **Sec. 44.** AS 39.25.120(c)(14) is amended to read:

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

6 * **Sec. 45.** AS 23.30.095(f), 23.30.095(l), and 23.30.095(m) are repealed.

7 * **Sec. 46.** AS 23.30.015(c), 23.30.040, 23.30.205, 23.30.395(27); and AS 37.05.146(c)(12)
8 are repealed.

9 * **Sec. 47.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 APPLICABILITY. The amendment to AS 23.30.175(b) made by sec. 30 of this Act
12 applies to an injury occurring on or after the effective date of sec. 30 of this Act.

13 * **Sec. 48.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

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

19 (b) Certificates, decisions, and orders issued under authority of a law amended or
20 repealed by this Act remain in effect for the term issued, or until revoked, vacated, or
21 otherwise modified under the provisions of this Act. Contracts, rights, liabilities, and
22 obligations created by or under a law amended or repealed by this Act and in effect on the day
23 before the effective date of this section remain in effect, notwithstanding this Act's taking
24 effect.

25 * **Sec. 49.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

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

1 * **Sec. 50.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **IMPLEMENTATION OF REPEAL OF SECOND INJURY FUND.** The balance of
4 the second injury fund created by former AS 23.30.040 is transferred to the general fund on
5 the effective date of this section.

6 * **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 **TRANSITION: MEDICAL SERVICES REVIEW COMMITTEE STUDY AND**
9 **REPORT.** The medical services review committee appointed by the commissioner of labor
10 and workforce development under AS 23.30.095(j), as amended by sec. 23 of this Act, shall
11 proceed to study medical and related benefits provided under AS 23.30 to determine the
12 appropriateness, necessity, and cost of the benefits and shall, by March 1, 2007, provide to the
13 commissioner of labor and workforce development a report of the results of the study.

14 * **Sec. 52.** Section 49 of this Act takes effect immediately under AS 01.10.070(c).

15 * **Sec. 53.** Sections 1 - 4, 30, and 51 of this Act take effect September 1, 2005.

16 * **Sec. 54.** Sections 5, 11, 37, 46, and 50 of this Act take effect on the date that the
17 commissioner of labor and workforce development certifies to the revisor of statutes and the
18 lieutenant governor that all liability for previously accepted claims to the second injury fund
19 created by former AS 23.30.040, and claims ordered to be paid from that fund, have been
20 satisfied.

21 * **Sec. 55.** Except as provided in secs. 52 - 54 of this Act, this Act takes effect August 1,
22 2005.