

SENATE BILL NO. 295

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATOR GUESS

Introduced: 2/14/06

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to workers' compensation; changing the description of the fairness
2 standard for monitoring workers' compensation rates; requiring disclosure on workers'
3 compensation billing statements of the insurers' overhead amounts used to calculate
4 adjustments to workers' compensation prospective loss cost; requiring disclosure of the
5 premium charged a business for overhead expenses; prohibiting settling of workers'
6 compensation claims when an employer asserts a claim of fraud against an employee
7 until the issue of whether a fraud occurred is resolved; and including workers'
8 compensation within the public advocacy monitoring responsibilities of the Department
9 of Law."

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

11 * **Section 1.** AS 21.39.010 is amended to read:

12 **Sec. 21.39.010. Purpose.** The purpose of this chapter is to promote the public

1 welfare by regulating insurance rates in order that they will **be just and reasonable**
 2 **and** not [BE EXCESSIVE, INADEQUATE, OR] unfairly **discriminate**
 3 [DISCRIMINATORY], and to authorize and regulate cooperative action among
 4 insurers in rate making and in other matters within the scope of this chapter. Nothing
 5 in this chapter is intended (1) to prohibit or discourage reasonable competition, or (2)
 6 to prohibit or encourage, except to the extent necessary to accomplish the purpose of
 7 this chapter, uniformity in insurance rates, rating systems, rating plans or practices.
 8 This chapter shall be liberally interpreted to carry into effect the intent of this section.

9 * **Sec. 2.** AS 21.39.030(a) is amended to read:

10 (a) Rates, including loss costs under AS 21.39.043 or any other provision of
 11 law, shall be made in accordance with the following provisions:

12 (1) rates **must be just and reasonable and may not be** [SHALL NOT
 13 BE EXCESSIVE, INADEQUATE, OR] unfairly discriminatory;

14 (2) **rates must be evaluated using the lowest reasonable cost**
 15 **prudently incurred of doing business providing workers' compensation**
 16 **insurance;**

17 (3) consideration shall be given to past and prospective loss experience
 18 inside and outside this state; to the conflagration and catastrophe hazards; to a
 19 reasonable margin for underwriting profit and contingencies; to dividends, savings, or
 20 unabsorbed premium deposits allowed or returned by insurers to their policyholders,
 21 members, or subscribers; to past and prospective expenses both countrywide and those
 22 specially applicable to this state; and to all other relevant factors inside and outside
 23 this state; **for purposes of this paragraph,**

24 (A) **for the purpose of calculating loss cost adjustment for**
 25 **workers' compensation under this section and AS 21.39.043, the following**
 26 **items are considered to be overhead:**

27 (i) **commission and brokerage expense;**

28 (ii) **other acquisition expense;**

29 (iii) **general expense;**

30 (iv) **taxes, licenses, and fees;**

31 (v) **underwriting profit and contingencies;**

1 (vi) investment income offset; and

2 (vii) other expenses as determined by regulation.

3 (B) an employer's workers' compensation billing statement

4 must include

5 (i) the total overhead submitted by a workers'
6 compensation insurer under (A) of this paragraph; and

7 (ii) the prospective loss cost adjustment charged to
8 each business for overhead expenses as a product of the approved
9 overhead rate multiplied by the company's workers' compensation
10 payroll;

11 (4) [(3)] the systems of expense provisions included in the rates for use
12 by an insurer or group of insurers may differ from those of other insurers or group of
13 insurers to reflect the requirements of the operating methods of the insurer or group of
14 insurers with respect to any kind of insurance, or with respect to a subdivision or
15 combination thereof for which subdivision or combination separate expense provisions
16 are applicable;

17 (5) [(4)] risks may be grouped by classifications for the establishment
18 of rates and minimum premiums; classification rates may be modified to produce rates
19 for individual risks in accordance with rating plans that establish standards for
20 measuring variations in hazards or expense provisions, or both; the standards may
21 measure any differences among risks that can be demonstrated to have a probable
22 effect upon losses or expenses;

23 (6) [(5)] in the case of fire insurance rates, consideration may be given
24 to the experience of the fire insurance business during a period of not more than the
25 most recent five-year period for which experience is available;

26 (7) [(6)] when there is an established program to inspect new and
27 existing dwellings and the program has been certified by the director as likely to
28 reduce the incidence of fires in inspected dwellings, then in any rate plan used in this
29 state, dwellings that have been found by the inspection to meet the standards
30 established by the program shall have credits applied to the rate in amounts approved
31 by the director.

1 * **Sec. 3.** AS 21.39.040(f) is amended to read:

2 (f) The director may, by written order, suspend or modify the requirement of
3 filing on a kind of insurance, subdivision, or combination of them, or on classes of
4 risks, the rates for which cannot practicably be filed before they are used or the filing
5 and approval of which are, in the director's opinion, not desirable or necessary for the
6 protection of the public. The orders shall be made known to insurers and rating
7 organizations affected by them. The director may make an examination that the
8 director may consider advisable to ascertain whether the rates affected by the order
9 meet the standards set out in AS 21.39.030(1) - (3) [AS 21.39.030(a)(2)].

10 * **Sec. 4.** AS 21.39.080(b) is amended to read:

11 (b) If the appeal is based upon the failure of the rating organization to make a
12 filing on behalf of the member or subscriber, that is based on a system of expense
13 provisions that differs, in accordance with the right granted in AS 21.39.030(a)(4)
14 [AS 21.39.030(a)(3)], from the system of expense provisions included in a filing made
15 by the rating organization, the director shall, if the appeal is granted, order the rating
16 organization to make the requested filing for use by the appellant. In deciding the
17 appeal, the director shall apply the standards set out in AS 21.39.030.

18 * **Sec. 5.** AS 23.30.012 is amended by adding a new subsection to read:

19 (c) If an employer asserts that an employee made false or misleading
20 statements, representations, or submissions related to a benefit under this chapter, as
21 set out in AS 29.30.250(a), the board may not approve an agreement until the board
22 determines whether the employer's assertion is valid.

23 * **Sec. 6.** AS 42.05.254(a) is amended to read:

24 (a) A regulated public utility operating in the state shall pay to the commission
25 an annual regulatory cost charge in an amount not to exceed the maximum percentage
26 of adjusted gross revenue that applies to the utility sector of which the utility is a part.
27 The regulatory cost charges that the commission expects to collect from all regulated
28 utilities may not exceed the sum of the following percentages of the total adjusted
29 gross revenue of all regulated public utilities derived from operations in the state: (1)
30 not more than .7 percent to fund the operations of the commission, and (2) not more
31 than .17 percent to fund operations of the public advocacy function under

1 AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law **related to**
2 **matters under AS 42.04 and this chapter**. An exempt utility shall pay the actual cost
3 of services provided to it by the commission.

4 * **Sec. 7.** AS 42.05.254(b) is amended to read:

5 (b) The commission shall by regulation establish a method to determine
6 annually the amount of the regulatory cost charge for a public utility. If the amount the
7 commission expects to collect under (a) of this section and under AS 42.06.286(a)
8 exceeds the authorized budgets of the commission and the Department of Law public
9 advocacy function under AS 42.04.070(c) and AS 44.23.020(e) **related to matters**
10 **under AS 42.04 and this chapter**, the commission shall, by order, reduce the
11 percentages determined under (h) of this section so that the total amount of the fees
12 collected approximately equals the authorized budgets of the commission and the
13 Department of Law public advocacy function under AS 42.04.070(c) and
14 AS 44.23.020(e) **related to matters under AS 42.04 and this chapter** for the fiscal
15 year.

16 * **Sec. 8.** AS 42.05.254(e) is amended to read:

17 (e) The commission shall administer the charge imposed under this section.
18 The Department of Revenue shall collect and enforce the charge imposed under this
19 section. The Department of Administration shall identify the amount of the operating
20 budgets of the commission and the Department of Law public advocacy function
21 under AS 42.04.070(c) and AS 44.23.020(e) **related to matters under AS 42.04 and**
22 **this chapter** that lapse into the general fund each year. The legislature may
23 appropriate an amount equal to the lapsed amount to the commission and to the
24 Department of Law public advocacy function under AS 42.04.070(c) and
25 AS 44.23.020(e) **related to matters under AS 42.04 and this chapter** for operating
26 costs for the next fiscal year. If the legislature does so, the commission shall reduce
27 the total regulatory cost charge collected for that fiscal year by a comparable amount.

28 * **Sec. 9.** AS 42.05.254(h) is amended to read:

29 (h) The commission shall by regulation establish a method to determine
30 annually the maximum percentage of adjusted gross revenue that will apply to each
31 regulated public utility sector and the maximum percentage of gross revenue that will

1 apply to the regulated pipeline carrier sector. Other than the cost of services provided
2 to exempt utilities, the method established shall allocate the commission's costs, and
3 the Department of Law's certified costs of its public advocacy function under
4 AS 42.04.070(c) and AS 44.23.020(e) **related to matters under AS 42.04 and this**
5 **chapter**, among the regulated public utility sectors and the regulated pipeline carrier
6 sector based on the relative amount of the commission's annual costs and the
7 Department of Law's certified costs that is attributable to regulating each sector. For
8 purposes of this subsection, the Department of Law shall annually certify to the
9 commission the costs of its public advocacy function under AS 42.04.070(c) and
10 AS 44.23.020(e) **related to matters under AS 42.04 and this chapter**.

11 * **Sec. 10.** AS 42.06.286(a) is amended to read:

12 (a) A pipeline carrier operating in the state shall pay to the commission an
13 annual regulatory cost charge in an amount not to exceed the sum of the following
14 percentages of gross revenue derived from operations in the state: (1) not more than .7
15 percent to fund the operations of the commission, and (2) not more than .17 percent to
16 fund operations of the public advocacy function under AS 42.04.070(c) and
17 AS 44.23.020(e) within the Department of Law **related to matters under this**
18 **chapter**. A regulatory cost charge may not be assessed on pipeline carrier operations
19 unless the operations are within the jurisdiction of the commission.

20 * **Sec. 11.** AS 42.06.286(b) is amended to read:

21 (b) The commission shall by regulation establish a method to determine
22 annually the amount of the regulatory cost charge. If the amount the commission
23 expects to collect under (a) of this section and under AS 42.05.254(a) exceeds the
24 authorized budgets of the commission and the Department of Law public advocacy
25 function under AS 42.04.070(c) and AS 44.23.020(e) **related to matters under this**
26 **chapter**, the commission shall, by order, reduce the percentage determined under (e)
27 of this section so that the total amount of the fees collected approximately equals the
28 authorized budgets of the commission and the Department of Law public advocacy
29 function under AS 42.04.070(c) and AS 44.23.020(e) **related to matters under this**
30 **chapter** for the fiscal year.

31 * **Sec. 12.** AS 42.06.286(c) is amended to read:

1 (c) The commission shall administer the charge imposed under this section.
2 The Department of Revenue shall collect and enforce the charge imposed under this
3 section. The Department of Administration shall identify the amount of the operating
4 budgets of the commission and the Department of Law public advocacy function
5 under AS 42.04.070(c) and AS 44.23.020(e) **related to matters under this chapter**
6 that lapse into the general fund each year. The legislature may appropriate an amount
7 equal to the lapsed amount to the commission and to the Department of Law public
8 advocacy function under AS 42.04.070(c) and AS 44.23.020(e) **related to matters**
9 **under this chapter** for operating costs for the next fiscal year. If the legislature does
10 so, the commission shall reduce the total regulatory cost charge collected for that
11 fiscal year by a comparable amount.

12 * **Sec. 13.** AS 44.23.020(e) is amended to read:

13 (e) There is established within the Department of Law the function of public
14 advocacy for regulatory affairs **and workers' compensation**. The attorney general
15 shall participate as a party in a matter that comes before the Regulatory Commission
16 of Alaska **and the Alaska Workers' Compensation Board** when the attorney general
17 determines that participation is in the public interest.