

SENATE BILL NO. 116

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced: 3/25/11

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act offering mediation of disputed workers' compensation claims by a hearing**
2 **officer or other classified employee of the division of workers' compensation and**
3 **allowing collective bargaining agreements to supersede certain provisions of the Alaska**
4 **Workers' Compensation Act; and providing for an effective date."**

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

6 *** Section 1.** AS 23.30.110 is amended by adding a new subsection to read:

7 (i) If the employee and the employer disagree with respect to the issues
8 relating to a claim under this chapter, the employee and the employer and their
9 respective representatives and agents may attend mediation, subject to the following:

10 (1) mediation under this section

11 (A) is intended to facilitate settlement of a disputed claim, but
12 the mediator does not have the power to compel a settlement;

13 (B) shall be conducted by a hearing officer or other classified
14 employee of the division of workers' compensation;

1 (C) shall be conducted informally as one or more in-person or
2 telephonic conferences, as determined by the mediator;

3 (D) shall be confidential; and

4 (E) may not be recorded;

5 (2) notwithstanding AS 23.30.135, evidence of efforts to compromise
6 or settle disputed claims and conduct or statements made during mediation may not be
7 used as evidence at a hearing under this chapter;

8 (3) after the first conference, either party may withdraw, or the
9 mediator may terminate mediation if the mediator determines that further mediation
10 efforts would be unproductive;

11 (4) if, at any time, the mediator determines that mediation efforts are
12 unsuccessful, the mediator shall terminate mediation and notify the board that
13 mediation efforts have failed;

14 (5) if the mediation is successful, the mediator may assist the employer
15 and the employee in preparing a memorandum of agreement for filing with the board
16 or approval by the board under AS 23.30.012;

17 (6) if the employer and employee fail to reach an agreement by
18 mediation, the procedure for a hearing under this section shall continue;

19 (7) the expense of the mediation may not be assessed against the
20 participants.

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

22 **Sec. 23.30.285. Collective bargaining agreements.** (a) A collective
23 bargaining agreement negotiated between an employer or a group of employers and a
24 labor organization that represents employees may

25 (1) establish a process for alternative dispute resolution, including
26 mediation and arbitration by a hearing officer or other classified employee of the
27 division of workers' compensation, that governs disputes between an employee and an
28 employer or the employer's insurer and that supplements or replaces a part or all of a
29 dispute resolution process under this chapter; the alternative dispute resolution process
30 under this paragraph must provide that a finding of fact, award, order, or decision of
31 an arbitrator

1 (A) has the same force and effect as a finding of fact, award,
2 order, or decision of a hearing officer under AS 23.30.005; and

3 (B) is subject to appeal in the same manner and using the same
4 procedures as provided for review of a finding of fact, award, order, or
5 decision made by a hearing officer or the Workers' Compensation Appeal
6 Commission under AS 23.30.008;

7 (2) identify health care providers who are the exclusive source of
8 medical treatment provided under this chapter; in this paragraph, "health care
9 provider" has the meaning given in AS 09.55.560;

10 (3) identify medical evaluators who are the exclusive source of
11 medical evaluations authorized under this chapter;

12 (4) identify vocational rehabilitation specialists who are the exclusive
13 source of vocational rehabilitation services regulated under this chapter;

14 (5) establish a joint safety committee with representatives from the
15 employer and the labor organization; and

16 (6) establish a program for light-duty employment or employment that
17 is modified according to limitations or restrictions imposed by a physician or
18 chiropractor.

19 (b) A collective bargaining agreement negotiated under the authority set out in
20 (a) of this section may not reduce an employee benefit set out in this chapter.

21 (c) In this section, "labor organization" means a labor or employee
22 organization of any kind in which employees participate and that exists for the primary
23 purpose of dealing with employers concerning grievances, labor disputes, wages, rates
24 of pay, hours of employment, and conditions of employment.

25 * **Sec. 3.** This Act takes effect July 1, 2012.