

CS FOR HOUSE BILL NO. 303(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 2/26/18

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to workers' compensation benefits for the rehabilitation and**
2 **reemployment of injured employees."**

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

4 * **Section 1.** AS 23.30.005(h) is amended to read:

5 (h) The department shall adopt rules for all panels, [AND] procedures for the
6 periodic selection, retention, and removal of both rehabilitation specialists and
7 physicians under AS 23.30.041 and 23.30.095, and [SHALL ADOPT] regulations to
8 carry out the provisions of this chapter. **The department shall adopt regulations to**
9 **set fees and establish qualifications for rehabilitation specialists who provide**
10 **services under AS 23.30.041.** The department may by regulation provide for
11 procedural, discovery, or stipulated matters to be heard and decided by the
12 commissioner or a hearing officer designated to represent the commissioner rather
13 than a panel. If a procedural, discovery, or stipulated matter is heard and decided by
14 the commissioner or a hearing officer designated to represent the commissioner, the

1 action taken is considered the action of the full board on that aspect of the claim.
 2 Process and procedure under this chapter shall be as summary and simple as possible.
 3 The department, the board, or a member of it may, for the purposes of this chapter,
 4 subpoena witnesses, administer or cause to be administered oaths, and [MAY]
 5 examine or cause to have examined the parts of the books and records of the parties to
 6 a proceeding that relate to questions in dispute. The superior court, on application of
 7 the department, the board, or any members of it, shall enforce the attendance and
 8 testimony of witnesses and the production and examination of books, papers, and
 9 records.

10 * **Sec. 2.** AS 23.30.012(a) is amended to read:

11 (a) **Except as provided in AS 23.30.041, at** [AT] any time after death, or
 12 after 30 days subsequent to the date of the injury, the employer and the employee or
 13 the beneficiary or beneficiaries, as the case may be, have the right to reach an
 14 agreement in regard to a claim for injury or death under this chapter. **A** [, BUT A]
 15 memorandum of the agreement in a form prescribed by the director shall be filed with
 16 the division. Otherwise, the agreement is void for any purpose. Except as provided in
 17 (b) of this section, an agreement filed with the division discharges the liability of the
 18 employer for the compensation, notwithstanding the provisions of AS 23.30.130,
 19 23.30.160, and 23.30.245, and is enforceable as a compensation order.

20 * **Sec. 3.** AS 23.30.041(b) is amended to read:

21 (b) The administrator [SHALL]
 22 (1) **shall** enforce regulations **that** [ADOPTED BY THE BOARD TO]
 23 implement this section;
 24 (2) **shall** recommend regulations for adoption by the **department**
 25 [BOARD] that establish **qualifications, fees, and** performance and reporting criteria
 26 for rehabilitation specialists;
 27 (3) **shall** enforce the quality and effectiveness of reemployment
 28 benefits provided for under this section;
 29 (4) **shall** review on an annual basis the performance of rehabilitation
 30 specialists to determine continued eligibility for delivery of rehabilitation services;
 31 (5) **shall** submit to the department, on or before **October 1** [MAY 1]

1 of each year, a report of reemployment benefits provided under this section for the
 2 previous calendar year; the report must include a general section, **a section**
 3 [SECTIONS] related to [EACH] rehabilitation **specialists** [SPECIALIST
 4 EMPLOYED UNDER THIS SECTION], and a statistical summary of all
 5 rehabilitation cases **and** [, INCLUDING

6 (A) THE ESTIMATED AND ACTUAL COST OF EACH
 7 ACTIVE REHABILITATION PLAN;

8 (B) THE ESTIMATED AND ACTUAL TIME OF EACH
 9 REHABILITATION PLAN;

10 (C) A STATUS REPORT ON ALL INDIVIDUALS
 11 REQUESTING, WAIVING, BEGINNING, COMPLETING, OR
 12 TERMINATING A REEMPLOYMENT BENEFITS PROGRAM
 13 INCLUDING

14 (i) REASONS FOR DENIAL, WAIVER,
 15 SUSPENSION, OR TERMINATION;

16 (ii) DATES OF COMPLETION AND RETURN TO
 17 WORK; AND

18 (iii) OTHER INFORMATION REQUIRED BY THE
 19 DIRECTOR;

20 (D)] the cost of reemployment benefits [;

21 (E) STATUS REPORTS OF ALL INDIVIDUALS WHO
 22 SUCCESSFULLY COMPLETED A REEMPLOYMENT PLAN THAT
 23 INCLUDES

24 (i) THE PLAN'S OCCUPATIONAL GOAL AND
 25 WHETHER THE INDIVIDUAL OBTAINED WORK AFTER
 26 COMPLETION IN THE PLANNED OR ANOTHER OCCUPATION;
 27 AND

28 (ii) THE INDIVIDUAL'S EMPLOYMENT STATUS
 29 SIX MONTHS, ONE YEAR, AND TWO YEARS AFTER
 30 REEMPLOYMENT PLAN COMPLETION];

31 (6) **shall** maintain a list of rehabilitation specialists who meet the

1 qualifications established under this section **and under regulations adopted by the**
 2 **department;**

3 (7) **shall** promote awareness among physicians, adjusters, injured
 4 workers, employers, employees, attorneys, training providers, and rehabilitation
 5 specialists of the reemployment program established in this **section;**

6 **(8) may develop and provide employers with information and**
 7 **consultation services on methods to return injured employees to work quickly;**
 8 **and**

9 **(9) may, at the request of the employer, employee, or rehabilitation**
 10 **specialist, or on the administrator's own initiative, hold a conference with an**
 11 **employee, an employer, and a rehabilitation specialist to discuss the employee's**
 12 **reemployment benefits** [SUBSECTION].

13 * **Sec. 4.** AS 23.30.041(c) is amended to read:

14 (c) An employee and an employer may stipulate to the employee's eligibility
 15 for reemployment benefits at any time. If an employee suffers a compensable injury
 16 and, as a result of the injury, the employee is totally unable, for **90** [45] consecutive
 17 days, to return to the employee's employment at the time of injury, the **employer shall**
 18 **notify the administrator in a format prescribed by the director on or before the**
 19 **100th day. Not later than 10 days after the 100th day, the** administrator shall notify
 20 the employee of the employee's rights **and obligations under this section, including**
 21 **notification that the employee shall attend an informational meeting regarding**
 22 **the employee's rights and obligations** under this section. **An** [WITHIN 14 DAYS
 23 AFTER THE 45TH DAY. IF THE EMPLOYEE IS TOTALLY UNABLE TO
 24 RETURN TO THE EMPLOYEE'S EMPLOYMENT FOR 60 CONSECUTIVE
 25 DAYS AS A RESULT OF THE INJURY, THE] employee [OR EMPLOYER] may
 26 request an eligibility evaluation **for reemployment benefits not later than 90 days**
 27 **after the payment of temporary disability compensation ends or the employee is**
 28 **notified in a format prescribed by the director that the employee may request an**
 29 **eligibility evaluation, whichever is later.** The administrator may approve the request
 30 if the employee's injury may permanently preclude the employee's return to the
 31 employee's occupation at the time of the injury. [IF THE EMPLOYEE IS TOTALLY

1 UNABLE TO RETURN TO THE EMPLOYEE'S EMPLOYMENT AT THE TIME
 2 OF THE INJURY FOR 90 CONSECUTIVE DAYS AS A RESULT OF THE
 3 INJURY, THE ADMINISTRATOR SHALL, WITHOUT A REQUEST, ORDER AN
 4 ELIGIBILITY EVALUATION UNLESS A STIPULATION OF ELIGIBILITY WAS
 5 SUBMITTED.] If the administrator approves **the** [A] request [OR ORDERS AN
 6 EVALUATION], the administrator shall [, ON A ROTATING AND GEOGRAPHIC
 7 BASIS,] select a rehabilitation specialist from the list maintained under (b)(6) of this
 8 section to perform the eligibility evaluation. If the person that employs a rehabilitation
 9 specialist selected by the administrator to perform an eligibility evaluation under this
 10 subsection is performing any other work on the same workers' compensation claim
 11 involving the injured employee, the administrator shall select a different rehabilitation
 12 specialist.

13 * **Sec. 5.** AS 23.30.041(d) is amended to read:

14 (d) **Not later than 60** [WITHIN 30] days after the referral by the
 15 administrator, the rehabilitation specialist shall perform the eligibility evaluation and
 16 issue a report of findings. **Not later than** [THE ADMINISTRATOR MAY GRANT
 17 UP TO AN ADDITIONAL 30 DAYS FOR PERFORMANCE OF THE
 18 ELIGIBILITY EVALUATION UPON NOTIFICATION OF UNUSUAL AND
 19 EXTENUATING CIRCUMSTANCES AND THE REHABILITATION
 20 SPECIALIST'S REQUEST. WITHIN] 14 days after receipt of the report from the
 21 rehabilitation specialist, the administrator shall **decide whether the employee is**
 22 **eligible for reemployment benefits and** notify the parties [OF THE EMPLOYEE'S
 23 ELIGIBILITY FOR REEMPLOYMENT PREPARATION BENEFITS]. **A party**
 24 **may seek reconsideration or review by the board of the administrator's decision**
 25 **under (v) of this section or modification of the administrator's decision under**
 26 **AS 23.30.130** [WITHIN 10 DAYS AFTER THE DECISION, EITHER PARTY MAY
 27 SEEK REVIEW OF THE DECISION BY REQUESTING A HEARING UNDER
 28 AS 23.30.110. THE HEARING SHALL BE HELD WITHIN 30 DAYS AFTER IT IS
 29 REQUESTED. THE BOARD SHALL UPHOLD THE DECISION OF THE
 30 ADMINISTRATOR EXCEPT FOR ABUSE OF DISCRETION ON THE
 31 ADMINISTRATOR'S PART].

1 * **Sec. 6.** AS 23.30.041(e) is amended to read:

2 (e) An employee shall be eligible for benefits under this section upon the
3 employee's written request and by having a physician predict that the employee will
4 have permanent physical capacities that are less than the physical demands of the
5 employee's job as described in the 1993 edition of the United States Department of
6 Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of
7 Occupational Titles" for

8 (1) the employee's job at the time of injury; or

9 (2) other jobs that exist in the labor market

10 (A) that the employee has held or received training for within
11 10 years before the injury; or

12 (B) that offer wages that ensure remunerative
13 employability for the employee and that the employee has held following the
14 injury for a period long enough to obtain the skills to compete in the labor
15 market, according to specific vocational preparation codes as described in the
16 1993 edition of the United States Department of Labor's "Selected
17 Characteristics of Occupations Defined in the Revised Dictionary of
18 Occupational Titles."

19 * **Sec. 7.** AS 23.30.041(f) is amended to read:

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

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

26 (2) [THE EMPLOYEE PREVIOUSLY DECLINED THE
27 DEVELOPMENT OF A REEMPLOYMENT BENEFITS PLAN UNDER (g) OF
28 THIS SECTION, RECEIVED A JOB DISLOCATION BENEFIT UNDER (g)(2) OF
29 THIS SECTION, AND RETURNED TO WORK IN THE SAME OR SIMILAR
30 OCCUPATION IN TERMS OF PHYSICAL DEMANDS REQUIRED OF THE
31 EMPLOYEE AT THE TIME OF THE PREVIOUS INJURY;

1 (3) THE EMPLOYEE HAS BEEN PREVIOUSLY
 2 REHABILITATED IN A FORMER WORKER'S COMPENSATION CLAIM AND
 3 RETURNED TO WORK IN THE SAME OR SIMILAR OCCUPATION IN TERMS
 4 OF PHYSICAL DEMANDS REQUIRED OF THE EMPLOYEE AT THE TIME OF
 5 THE PREVIOUS INJURY; OR

6 (4)] at the time of medical stability, no permanent impairment is
 7 identified or expected; or

8 (3) the employee returned to work in the same or similar
 9 occupation in terms of physical demands required of the employee at the time of
 10 a previous injury after

11 (A) receiving a job dislocation benefit in the former
 12 workers' compensation claim; or

13 (B) completing a reemployment plan in the former
 14 workers' compensation claim.

15 * **Sec. 8.** AS 23.30.041(g) is amended to read:

16 (g) After an [WITHIN 30 DAYS AFTER THE] employee receives the
 17 administrator's determination [NOTIFICATION] of eligibility for reemployment
 18 benefits or the employer and employee stipulate that the employee is eligible for
 19 benefits, the employee may take a job dislocation benefit under (s) of this section
 20 or may proceed with the reemployment process by selecting a rehabilitation
 21 specialist to develop a reemployment plan. The employee [, AN EMPLOYEE
 22 SHALL FILE A STATEMENT UNDER OATH WITH THE BOARD, ON A FORM
 23 PRESCRIBED OR APPROVED BY THE BOARD, TO NOTIFY THE
 24 ADMINISTRATOR AND THE EMPLOYER OF THE EMPLOYEE'S ELECTION
 25 TO EITHER USE THE REEMPLOYMENT BENEFITS OR TO ACCEPT A JOB
 26 DISLOCATION BENEFIT UNDER (2) OF THIS SUBSECTION. THE NOTICE OF
 27 THE ELECTION IS EFFECTIVE UPON SERVICE TO THE ADMINISTRATOR
 28 AND THE EMPLOYER. THE FOLLOWING APPLY TO AN ELECTION UNDER
 29 THIS SUBSECTION:

30 (1) AN EMPLOYEE WHO ELECTS TO USE THE
 31 REEMPLOYMENT BENEFITS ALSO] shall notify the employer of the employee's

1 selection of a rehabilitation specialist **not later than 30 days after the determination**
 2 **of eligibility or stipulation. An employee's** [WHO SHALL PROVIDE A
 3 COMPLETE REEMPLOYMENT BENEFITS PLAN;] failure to give notice of
 4 selection [OF A REHABILITATION SPECIALIST REQUIRED BY THIS
 5 PARAGRAPH] constitutes noncooperation under (n) of this section. **If** [; IF] the
 6 employer disagrees with the employee's **selection** [CHOICE] of **the** rehabilitation
 7 specialist [TO DEVELOP THE PLAN] and the disagreement cannot be resolved,
 8 [THEN] the administrator shall assign a rehabilitation specialist. **The administrator**
 9 **may also assign a new rehabilitation specialist if no progress report or plan is**
 10 **timely provided under (h) of this section. If the administrator selects a**
 11 **rehabilitation specialist,** [;] the employer and employee each have one right of
 12 refusal of a rehabilitation specialist [;

13 (2) AN EMPLOYEE WHO ELECTS TO ACCEPT A JOB
 14 DISLOCATION BENEFIT IN PLACE OF REEMPLOYMENT BENEFITS AND
 15 WHO HAS BEEN GIVEN A PERMANENT PARTIAL IMPAIRMENT RATING
 16 BY A PHYSICIAN SHALL BE PAID

17 (A) \$5,000 IF THE EMPLOYEE'S PERMANENT PARTIAL
 18 IMPAIRMENT RATING IS GREATER THAN ZERO AND LESS THAN 15
 19 PERCENT;

20 (B) \$8,000 IF THE EMPLOYEE'S PERMANENT PARTIAL
 21 IMPAIRMENT RATING IS 15 PERCENT OR GREATER BUT LESS
 22 THAN 30 PERCENT; OR

23 (C) \$13,500 IF THE EMPLOYEE'S PERMANENT PARTIAL
 24 IMPAIRMENT RATING IS 30 PERCENT OR GREATER;

25 (3) THE FORM PROVIDED BY THE DIVISION FOR ELECTION
 26 MUST SPECIFY THAT THE EMPLOYEE UNDERSTANDS THE SCOPE OF THE
 27 BENEFITS AND RIGHTS BEING WAIVED BY THE ELECTION; THE BOARD
 28 SHALL SERVE A COPY OF THE EXECUTED ELECTION FORM ON THE
 29 ADMINISTRATOR AND THE EMPLOYER WITHIN 10 DAYS AFTER
 30 RECEIVING THE FORM FROM THE EMPLOYEE; A WAIVER AND ELECTION
 31 EFFECTIVE UNDER THIS SUBSECTION DISCHARGES THE EMPLOYER'S

1 LIABILITY FOR THE BENEFITS OR RIGHTS UNDER THIS SECTION THAT
 2 WERE NOT ELECTED; A WAIVER MAY NOT BE MODIFIED UNDER
 3 AS 23.30.130; THE ADMINISTRATOR MAY NOT ACCEPT AN ELECTION TO
 4 ACCEPT A JOB DISLOCATION BENEFIT BY AN EMPLOYEE WHO HAS NOT
 5 SIGNED A FORM THAT CONSPICUOUSLY NOTES THE BENEFIT BEING
 6 WAIVED].

7 * **Sec. 9.** AS 23.30.041(h) is amended to read:

8 (h) **Not later than 60** [WITHIN 90] days after the rehabilitation specialist's
 9 selection under (g) of this section, **the rehabilitation specialist shall provide a**
 10 **progress report regarding the development of a** [THE] reemployment plan **to the**
 11 **employer, employee, and administrator. Not later than 90 days after the**
 12 **rehabilitation specialist's selection under (g) of this section, the rehabilitation**
 13 **specialist shall send a reemployment plan to the employer and employee for**
 14 **approval and shall send a copy of the plan to the administrator** [MUST BE
 15 FORMULATED AND APPROVED]. The reemployment plan must **ensure**
 16 **remunerative employability**, require continuous participation by the employee, and
 17 [MUST] maximize the usage of the employee's transferrable skills. **If the**
 18 **rehabilitation specialist cannot develop a plan that ensures remunerative**
 19 **employability and that will be completed within the time and cost limitations of**
 20 **(k) and (l) of this section, the employee may choose to waive remunerative**
 21 **employability in the plan.** The reemployment plan must include at least the
 22 following:

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

24 (2) an inventory of the employee's technical skills, transferrable skills,
 25 physical and intellectual capacities, academic achievement, emotional condition, and
 26 family support;

27 (3) a plan to acquire the occupational skills to be employable **through**

28 **(A) on-the-job training;**

29 **(B) vocational training;**

30 **(C) academic training;**

31 **(D) self-employment; or**

(E) a combination of (A) - (D) of this paragraph;

(4) the cost estimate of the reemployment plan, including provider fees; and the cost of tuition, books, tools, and supplies, transportation, temporary lodging, or job modification devices;

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

(6) the date that the plan will commence;

(7) [THE ESTIMATED TIME OF MEDICAL STABILITY AS PREDICTED BY A TREATING PHYSICIAN OR BY A PHYSICIAN WHO HAS EXAMINED THE EMPLOYEE AT THE REQUEST OF THE EMPLOYER OR THE BOARD, OR BY REFERRAL OF THE TREATING PHYSICIAN;

(8)] a detailed description and plan schedule;

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

(9) if applicable, a finding by the rehabilitation specialist that a plan may not be developed that will be completed within the time and cost limitations of (k) and (l) of this section while ensuring remunerative employability, and a statement to be signed by the employee indicating the employee's agreement to waive remunerative employability; and

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

* **Sec. 10.** AS 23.30.041(j) is repealed and reenacted to read:

(j) Not later than 30 days after the rehabilitation specialist completes and sends out a reemployment plan under (h) of this section, the employer and employee may approve the plan by signing the plan and returning the plan to the rehabilitation specialist, or either party may deny the plan by providing a specific reason in a request to the administrator for review of the plan. If one party approves the plan and no other

1 party seeks review of the plan by the deadline, the plan is considered approved. If the
 2 administrator reviews a plan, the administrator may hold a conference, at the request
 3 of a party or on the administrator's own initiative, with the parties and the
 4 rehabilitation specialist to ask for additional information or discuss reaching an
 5 agreement on the plan. If the parties do not agree or a conference is not held, the
 6 administrator shall make a decision approving, denying, or changing the plan not later
 7 than 14 days after the request for review or conference, whichever is later. A party
 8 may seek reconsideration or review by the board of the administrator's decision
 9 approving, denying, or changing a plan under (v) of this section or modifying an
 10 approved plan under (u) of this section.

11 * **Sec. 11.** AS 23.30.041(k) is amended to read:

12 (k) **Benefits related to the reemployment process start on the date an**
 13 **employee requests an eligibility evaluation or an employer and employee**
 14 **stipulate to the employee's eligibility without an evaluation request. Before the**
 15 **date of plan approval, stipend compensation under (2) of this subsection may not**
 16 **extend past one year after permanent partial impairment benefits are exhausted**
 17 **under (1) of this subsection. On or after the date of plan approval, benefits**
 18 [BENEFITS] related to the reemployment plan, **including stipend compensation,**
 19 may not extend past two years **after the** [FROM] date of plan approval [OR
 20 ACCEPTANCE, WHICHEVER DATE OCCURS FIRST], at which time the benefits
 21 expire. **The benefits under this subsection are paid as follows:**

22 **(1) if** [. IF] an employee reaches medical stability before completion **or**
 23 **termination** of the **process** [PLAN], temporary total disability benefits shall cease,
 24 and **the employer shall pay** permanent **partial** impairment benefits [SHALL THEN
 25 BE PAID] at the employee's temporary total disability rate;

26 **(2) if** [. IF] the employee's permanent **partial** impairment benefits are
 27 exhausted before the completion or termination of the reemployment process, the
 28 employer shall provide **stipend** compensation equal to 70 percent of the employee's
 29 spendable weekly wages, but not to exceed 105 percent of the average weekly wage,
 30 until the completion or termination of the process, except that any compensation paid
 31 under this **paragraph** [SUBSECTION] is reduced by wages earned by the employee

1 while participating in the process to the extent that the wages earned, when combined
 2 with the compensation paid under this subsection, exceed the employee's temporary
 3 total disability rate;

4 **(3) if** [. IF PERMANENT PARTIAL DISABILITY OR] permanent
 5 partial impairment benefits have been paid in a lump sum before the employee
 6 requested or was found eligible for reemployment benefits, payment of benefits under
 7 this subsection is suspended until [PERMANENT PARTIAL DISABILITY OR]
 8 permanent partial impairment benefits would have ceased, had those benefits been
 9 paid at the employee's temporary total disability rate, notwithstanding the provisions
 10 of AS 23.30.155(j); **a** [. A] permanent **partial** impairment benefit remaining unpaid
 11 upon the completion or termination of the plan shall be paid to the employee in a
 12 single lump sum;

13 **(4) an** [. AN] employee may not be considered permanently totally
 14 disabled so long as the employee is involved in the **reemployment process under**
 15 **this section** [REHABILITATION PROCESS UNDER THIS CHAPTER. THE FEES
 16 OF THE REHABILITATION SPECIALIST OR REHABILITATION
 17 PROFESSIONAL SHALL BE PAID BY THE EMPLOYER AND MAY NOT BE
 18 INCLUDED IN DETERMINING THE COST OF THE REEMPLOYMENT PLAN].

19 * **Sec. 12.** AS 23.30.041(*l*) is amended to read:

20 (*l*) The cost of the reemployment plan incurred under this section shall be the
 21 responsibility of the employer, shall be paid on an expense incurred basis, and may not
 22 exceed **\$19,300. The commissioner shall adjust the maximum plan cost under this**
 23 **subsection each year on January 1 based on the Consumer Price Index for the**
 24 **Anchorage metropolitan area, as published by the Bureau of Labor Statistics,**
 25 **United States Department of Labor. The maximum plan cost in effect when the**
 26 **employee is found eligible for reemployment benefits applies to that plan and**
 27 **continues to apply to that plan even if the plan is later modified. The fees of a**
 28 **rehabilitation specialist may not be included in determining the cost of the plan.**
 29 **The employer shall pay a rehabilitation specialist's fees for services under this**
 30 **chapter. The administrator shall recommend and the department shall adopt**
 31 **regulations to establish fees for rehabilitation specialist services** [\$13,300].

1 * **Sec. 13.** AS 23.30.041(n) is amended to read:

2 (n) After the employee has **requested an eligibility evaluation or the**
 3 **employer and employee have stipulated to eligibility for reemployment benefits,**
 4 [ELECTED TO PARTICIPATE IN REEMPLOYMENT BENEFITS, IF THE
 5 EMPLOYER BELIEVES THE EMPLOYEE HAS NOT COOPERATED], the
 6 employer may **controvert reemployment benefits under AS 23.30.155 if the**
 7 **employee has not cooperated with the reemployment process, as demonstrated by**
 8 [TERMINATE REEMPLOYMENT BENEFITS ON THE DATE OF
 9 NONCOOPERATION. NONCOOPERATION MEANS]

10 (1) unreasonable failure to

11 (A) keep appointments;

12 (B) maintain passing grades;

13 (C) attend designated programs;

14 (D) maintain contact with the rehabilitation specialist;

15 (E) cooperate with the rehabilitation specialist in developing a
 16 reemployment plan and participating in activities relating to reemployability on
 17 a full-time basis;

18 (F) comply with the employee's responsibilities outlined in the
 19 reemployment plan; or

20 (G) participate in any planned reemployment activity as
 21 determined by the administrator; or

22 (2) failure to give written notice to the employer of the employee's
 23 choice of rehabilitation **specialist** [SPECIALISTS WITHIN 30 DAYS AFTER
 24 RECEIVING NOTICE OF ELIGIBILITY FOR BENEFITS FROM THE
 25 ADMINISTRATOR] as required by (g) of this section.

26 * **Sec. 14.** AS 23.30.041(o) is amended to read:

27 (o) Upon the request of **a** [EITHER] party, the administrator shall decide
 28 whether the employee has not cooperated as provided under (n) of this section. A
 29 hearing before the administrator shall be held **not later than** [WITHIN] 30 days after
 30 it is requested. The administrator shall issue a decision **not later than** [WITHIN] 14
 31 days after the hearing. **A party may seek reconsideration by the administrator or**

1 **review by the board of the administrator's decision under (v) of this section, or**
 2 **modification of the administrator's decision under AS 23.30.130** [WITHIN 10
 3 DAYS AFTER THE ADMINISTRATOR FILES THE DECISION, EITHER PARTY
 4 MAY SEEK REVIEW OF THE DECISION BY REQUESTING A HEARING
 5 UNDER AS 23.30.110; THE BOARD SHALL UPHOLD THE DECISION OF THE
 6 ADMINISTRATOR UNLESS EVIDENCE IS SUBMITTED SUPPORTING AN
 7 ALLEGATION OF ABUSE OF DISCRETION ON THE PART OF THE
 8 ADMINISTRATOR; THE BOARD SHALL RENDER A DECISION WITHIN 30
 9 DAYS AFTER COMPLETION OF THE HEARING].

10 * **Sec. 15.** AS 23.30.041(q) is repealed and reenacted to read:

11 (q) Notwithstanding AS 23.30.012, an employer and employee may not reach
 12 an agreement that requires the employer to pay a lump sum to the employee in
 13 exchange for waiving any benefit under this section. An agreement that violates this
 14 subsection is void and may not be enforced. This subsection does not apply to a job
 15 dislocation benefit under (s) of this section.

16 * **Sec. 16.** AS 23.30.041(r)(6) is amended to read:

17 (6) "rehabilitation specialist" means a person who is a certified
 18 insurance rehabilitation specialist **or** [,] a certified rehabilitation counselor, or [A
 19 PERSON] who **meets the** [HAS EQUIVALENT OR BETTER] qualifications
 20 **specified in** [AS DETERMINED UNDER] regulations adopted by the department;

21 * **Sec. 17.** AS 23.30.041 is amended by adding new subsections to read:

22 (s) An employee who is eligible for reemployment benefits may select a job
 23 dislocation benefit instead of reemployment benefits at any stage of the reemployment
 24 process but not later than 150 days after the employee receives the administrator's
 25 determination of eligibility or the employee and employer stipulate to the employee's
 26 eligibility. To select a job dislocation benefit, an employee shall sign and file a sworn
 27 statement with the division, in a format prescribed by the director, specifying the
 28 scope of benefits and rights waived by the selection. Not later than 10 days after
 29 receiving the completed statement from the employee, the division shall serve a copy
 30 on the administrator and the parties to the claim. The employee's selection of a job
 31 dislocation benefit

1 (1) takes effect upon service of the statement on the employer;
 2 (2) requires the employer to pay the employee a job dislocation benefit
 3 of

4 (A) \$6,500 if the employee's permanent partial impairment
 5 rating is greater than zero and less than 15 percent;

6 (B) \$10,500 if the employee's permanent partial impairment
 7 rating is 15 percent or greater but less than 30 percent; or

8 (C) \$17,500 if the employee's permanent partial impairment
 9 rating is 30 percent or greater;

10 (3) ends the reemployment process on the effective date of the
 11 selection;

12 (4) discharges the liability of the employer for reemployment benefits
 13 on or after the effective date of the selection, but the employer shall pay costs and fees
 14 incurred and compensation payable during the reemployment process before the
 15 effective date of the selection; and

16 (5) may not be modified under AS 23.30.130.

17 (t) At the request of a rehabilitation specialist, an employee, or an employer,
 18 the administrator may suspend the reemployment process at any time based on an
 19 unusual and extenuating circumstance, evaluated every 60 days by the administrator,
 20 or a change in the employee's medical condition that prevents the employee from
 21 participating in the reemployment process. The running of the periods in (d), (g), (h),
 22 (j), (k), and (s) of this section are suspended, and the employer may not controvert
 23 benefits for noncooperation under (n) of this section from the date that the
 24 administrator notifies the parties and rehabilitation specialist of a suspension. The
 25 employer shall continue to pay reemployment benefits during a suspension, unless
 26 benefits are controverted on grounds other than noncooperation. The administrator
 27 may resume the reemployment process at the request of the rehabilitation specialist,
 28 employee, or employer, or on the administrator's own initiative when the
 29 circumstances that resulted in the suspension have changed or are expected to change.
 30 The periods in (d), (g), (h), (j), (k), and (s) of this section continue to run again and the
 31 employer may controvert benefits for noncooperation under (n) of this section from

1 the date that the administrator notifies the parties and the rehabilitation specialist that
 2 the reemployment process has resumed. A party may, under (v) of this section, seek
 3 reconsideration by the administrator or review by the board of the administrator's
 4 decision to suspend or resume the reemployment process.

5 (u) Before an employee completes an approved reemployment plan, the
 6 employer or employee may request that the rehabilitation specialist modify the plan on
 7 the ground of a change in conditions or a mistake in the determination of a fact, except
 8 that the time to complete and the cost of a modified plan, when combined with the
 9 time spent and costs incurred under the initial plan, may not exceed the time and cost
 10 limitations in (k) and (l) of this section. If the employer and employee do not agree on
 11 a modified plan, either party may submit the modified plan to the administrator for
 12 approval. The administrator shall issue a decision on the modified plan not later than
 13 14 days after the plan is submitted. A party may seek reconsideration or board review
 14 of the administrator's decision under (v) of this section, or may seek a different
 15 modification of the plan under this subsection.

16 (v) An employer or employee may ask the administrator in writing to
 17 reconsider a decision made under (d), (j), (o), (t), or (u) of this section not later than 14
 18 days after the decision is served. The administrator shall decide a request for
 19 reconsideration not later than 14 days after the administrator receives the request. A
 20 party may seek review of a decision made under (d), (j), (o), (t), or (u) of this section
 21 by requesting a hearing before the board under AS 23.30.110 not later than 30 days
 22 after service of the initial decision or the decision on reconsideration, whichever is
 23 later. The board shall uphold the administrator's decision except for an abuse of
 24 discretion on the administrator's part.

25 (w) An employee who requested an eligibility evaluation or stipulated to
 26 eligibility may end the reemployment process at any time. To end the reemployment
 27 process,

28 (1) if the employee is eligible for reemployment benefits and the
 29 period for selecting the job dislocation benefit has not run, the employee shall request
 30 a job dislocation benefit under (s) of this section;

31 (2) if the employee is not eligible for the job dislocation benefit, the

1 employee shall notify the division in a format prescribed by the director; the
2 notification

3 (A) takes effect upon service to the employer; not later than 10
4 days after receiving the notification from the employee, the division shall serve
5 a copy on the administrator and the parties to the claim;

6 (B) discharges the liability of the employer for reemployment
7 and job dislocation benefits on or after the effective date of the notification, but
8 the employer shall pay costs and fees incurred and compensation payable
9 during the reemployment process before the effective date of the notification;
10 and

11 (C) may not be modified under AS 23.30.130.

12 * **Sec. 18.** AS 23.30.130 is amended by adding a new subsection to read:

13 (c) At the request of a party on the ground of a change in conditions or a
14 mistake in the determination of a fact, the reemployment benefits administrator may,
15 not later than one year after the initial decision was made, review and modify a
16 decision issued by the reemployment benefits administrator under AS 23.30.041
17 relating to an employee's eligibility for reemployment benefits or an employee's
18 noncooperation in the reemployment process.

19 * **Sec. 19.** AS 23.30.041(i) is repealed.

20 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **APPLICABILITY.** (a) AS 23.30.012(a), as amended by sec. 2 of this Act,
23 AS 23.30.041(c), as amended by sec. 4 of this Act, AS 23.30.041(e), as amended by sec. 6 of
24 this Act, AS 23.30.041(g), as amended by sec. 8 of this Act, AS 23.30.041(h), as amended by
25 sec. 9 of this Act, AS 23.30.041(k), as amended by sec. 11 of this Act, AS 23.30.041(n), as
26 amended by sec. 13 of this Act, AS 23.30.041(q), as repealed and reenacted by sec. 15 of this
27 Act, AS 23.30.041(s), (t), and (w), added by sec. 17 of this Act, and the repeal of
28 AS 23.30.041(i) by sec. 19 of this Act apply to injuries occurring on or after the effective date
29 of secs. 2, 4, 6, 8, 9, 11, 13, 15, 17, and 19 of this Act.

30 (b) AS 23.30.041(d), as amended by sec. 5 of this Act, and AS 23.30.041(j), as
31 repealed and reenacted by sec. 10 of this Act, apply to injuries occurring on or after the

1 effective date of secs. 5 and 10 of this Act, except that a party may seek review by the board,
2 or reconsideration or modification of the administrator's decision on eligibility for
3 reemployment benefits or plan approval under the time frames and procedures in
4 AS 23.30.041(v), added by sec. 17 of this Act, and AS 23.30.130(c), added by sec. 18 of this
5 Act, if the administrator serves the parties with the administrator's decision on or after the
6 effective date of secs. 5, 10, 17, and 18 of this Act.

7 (c) AS 23.30.041(f), as amended by sec. 7 of this Act, applies to job dislocation
8 benefits selected, reemployment plans completed, and injuries occurring on or after the
9 effective date of sec. 7 of this Act.

10 (d) AS 23.30.041(l), as amended by sec. 12 of this Act, applies to injuries occurring
11 on or after the effective date of sec. 12 of this Act and, for purposes of an employer's payment
12 for the services of a rehabilitation specialist, applies to the services performed on or after the
13 effective date of sec. 12 of this Act.

14 (e) AS 23.30.041(o), as amended by sec. 14 of this Act, AS 23.30.041(v), added by
15 sec. 17 of this Act, and AS 23.30.130(c), added by sec. 18 of this Act, apply to decisions that
16 the administrator serves on the parties on or after the effective date of secs. 14, 17, and 18 of
17 this Act.

18 (f) AS 23.30.041(u), added by sec. 17 of this Act, applies to reemployment plans that
19 have not been completed on or after the effective date of sec. 17 of this Act, except that, if the
20 employee's plan is based on an injury occurring before the effective date of AS 23.30.041(k)
21 and (l), as amended by secs. 11 and 12 of this Act, the time to complete and the cost of a
22 modified plan, when combined with the time spent and costs incurred under the initial plan,
23 may not exceed the time and cost limitations of AS 23.30.041(k) and (l) as those subsections
24 read on the day before the effective date of secs. 11 and 12 of this Act.