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IN THE SENATE

BY SENATORS BELTZ, OWEN AND RIVERS

SENATE BILL NO. 102

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-SECOND SESSION

A BILL

For an Act entitled: "An Act to create an industrial accident fund within the Territorial Treasury; providing for payments from the fund and the replenishment thereof; authorizing an appropriation; repealing Secs. 13, 14, 16, 17, 20, 30, 31 of Senate Bill No. 81, 22nd Regular Session, Legislature of the Territory of Alaska, 1955; and repealing Secs. 43-3-18, 43-3-19, 43-3-20, 43-3-21, 43-3-25, 43-3-27, 43-3-32, 43-3-33 and 43-3-34, ACLA, 1949, and Sec. 43-3-5, ACLA 1949, as amended by Ch. 104, SLA, 1949; and declaring an emergency."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. CONDITIONS DEMANDING THE LAW. The Legislature hereby recognizes that injury to workmen, resulting in their partial or total incapacity or death, and compensation therefore under the rules of the common law and the statutes now in force, casts an unequal burden upon the citizens of Alaska. Therefore, by this Act the Legislature intends to provide sure and certain relief for workers injured, and their families and dependents, regardless of questions of fault and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this Act; and to that end the remedies of this Act shall

1 be exclusive and prerequisite to any court proceeding, except as  
2 provided in this Act.

3       Sec. 2. RULES AND REGULATIONS: REPORTS. The Workmen's  
4 Compensation Board (hereinafter called the Board) is hereby  
5 authorized to make all rules and regulations reasonably required  
6 in the administration of the provisions of this Act, and shall  
7 require the making of such reports in such form and manner as  
8 may be deemed necessary by the Board.

9       Sec. 3. COVERAGE. All persons, firms and corporations en-  
10 gaged as employers in Alaska that are covered by the Workmen's  
11 Compensation Act of Alaska, shall be subject to the provisions of  
12 this Act; except such persons, firms and corporations who shall  
13 furnish to the Board satisfactory proof of his financial ability  
14 to pay direct the compensation provided for in the Workmen's  
15 Compensation Act. In the latter case the Board may, in its dis-  
16 cretion, require the deposit of an acceptable security, indemnity  
17 or bond to secure the payment of compensation liabilities as they  
18 are incurred.

19       Sec. 4. STATEMENT REQUIRED OF EMPLOYERS: PENALTY. Every  
20 person, firm, or corporation covered by this Act shall file with  
21 the Board a statement signed by such person, firm or corporation,  
22 or by a duly authorized agent, stating the name and address of  
23 such person, and stating that such person, firm or corporation,  
24 or duly authorized agent, has knowledge of this Act and of the  
25 requirement for payment of a percentage of the payroll as in this  
26 Act provided. It shall be a misdemeanor for any such person, firm,  
27 or corporation to engage in any occupation unless or until such  
28 prescribed statement or statements shall have been filed, and  
29 each day of any failure so to file shall constitute a separate

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1 offense, and, upon conviction such person shall be subject to a  
2 penalty of not less than Twenty-five (\$25.00) Dollars nor more  
3 than One Hundred (\$100.00) Dollars, for each such offense.

4 Sec. 5. INDUSTRIAL ACCIDENT FUND CREATED. There is hereby  
5 created a fund in the Territorial Treasury under the name and  
6 style of "The Industrial Accident Fund," which fund shall be held  
7 by the Territorial Treasurer for the payment of all expenses of  
8 this Act, including all salaries, clerk hire, other administrative  
9 expenses, and payments for compensation of injuries and benefits  
10 as awarded under the provisions of the Workmen's Compensation Act  
11 of Alaska. All moneys received by the Board under the provisions  
12 of this Act shall be deposited forthwith in said Industrial  
13 Accident Fund.

14 Sec. 6. RATES. Every employer engaged in any occupation  
15 covered by the Workmen's Compensation Act of Alaska shall pay to  
16 the Board on or before the 15th day of each month a percentage of  
17 his total payroll from the preceding calendar month of workmen  
18 subject to this Act, according to and at the rates established by  
19 the Board. It is the legislative intent that the fund created by  
20 Section 5 of this Act shall ultimately become neither more nor  
21 less than self-supporting, exclusive of the provision for a  
22 Second Injury Fund, and exclusive of the expense of administration  
23 as hereinafter provided; and that the Board shall make adjustments  
24 in the rates annually.

25 Sec. 7. CLASSIFICATION. The Board shall on or before the  
26 first day of January, 1956 establish rates and annually thereafter  
27 make corrections of classifications or premium rating as between  
28 classes of industries if, and as, experience shall show that  
29 differential rates are necessary to provide that each class of

1 industry shall meet and be liable for accidents happening in each  
2 such class. The Board shall keep accounts of each industry in  
3 accordance with classifications established by said Board.

4       Sec. 8. INSUFFICIENCY OF FUNDS IN CLASS. In the event that  
5 the funds credited to any class of industry are insufficient to  
6 meet the claims against that class, the claim shall be paid out of  
7 any moneys in the Industrial Accident Fund, and the losses to  
8 other classes shall be credited by providing a new rating in the  
9 next year, for the class showing a deficit.

10       Sec. 9. LOAN FROM GENERAL FUND. There is hereby authorized  
11 to be appropriated and transferred to the Industrial Accident Fund,  
12 out of any moneys in the General Fund, the sum of Two Hundred  
13 Fifty Thousand (\$250,000.00) Dollars, as a loan to such fund to be  
14 repaid in due course. It is the intent that the industries covered  
15 by this Act shall be responsible for all moneys necessary to carry  
16 out the provisions of the Act, and that any moneys transferred by  
17 the Treasurer, as aforesaid, shall be a loan for the purpose of  
18 making funds available for the use of the Board during the period  
19 of time necessary for the fund to be built up by contributions as  
20 provided in this Act. Whenever the fund created by contributions  
21 shall be built up to the point where it can reasonably be expected  
22 to meet the requirements of the Act, the Board shall cause twenty  
23 (20%) per centum of all additional contributions to be covered  
24 into the General Fund until such time as said loan is fully repaid.

25       Sec. 10. PAYMENT OF AWARD. If any workman, while he is sub-  
26 ject to this Act and in the service of an employer who must con-  
27 tribute to the Industrial Accident Fund shall sustain a personal  
28 injury under circumstances whereby such employee or his bene-  
29 ficiary is entitled to compensation under the provisions of, and

1 in the amounts authorized by, the Alaska Workmen's Compensation.  
2 Act, such compensation shall be paid from the Industrial Accident  
3 Fund based upon awards made by the Board. Payments shall be  
4 certified by voucher signed by the Chairman of the Board.

5       Sec. 11. PENALTIES: LIEN: ACTIONS. When any contribution  
6 required by this Act to be made by an employer on his own account  
7 or on account of any workmen in his employ becomes due, interest  
8 at the rate of one (1%) per centum per month or fraction thereof  
9 shall be added to the amount of such payment from and after the  
10 first day of the month following the date upon which such payment  
11 became due. If any employer shall default in any payment of con-  
12 tributions required by this Act after a written demand therefor  
13 shall have been made on such employer by the Board, such employer  
14 shall be subject to a penalty of ten (10%) per centum of the amount  
15 of contributions then due. The amount of such contribution, to-  
16 gether with interest and penalties, shall be collected in the same  
17 action, and an action may be maintained in the name of the Board,  
18 as plaintiff, and such right of action shall be in addition to  
19 any other right of action, remedy or penalty for non-payment.

20       All contributions, interest charges, penalties or amounts  
21 due the Industrial Accident Fund from any employer as provided in  
22 this Act, and all judgments recovered by the Board against any  
23 employer under any of the provisions of this Act, shall be deemed  
24 preferred claims in all bankruptcy proceedings, trustee proceed-  
25 ings, for the administration of estates and receiverships invol-  
26 ving the employer liable therefor or the property of such employ-  
27 er.

28       Sec. 12. NOTICE OF DEFAULT: DISPLAY. Every employer in  
29 default in the payment of any contributions required by this Act,

1 and who shall have received from the Board a formal notice of  
2 default for payment, shall display such notice of default by  
3 posting such notice in a place conspicuous to his workmen in such  
4 manner as to inform his workmen of such default. Failure on the  
5 part of such employer to post notice of default, as herein pro-  
6 vided, shall be a misdemeanor.

7       Sec. 13. NATURE OF LIEN; ACTION. Every employer required  
8 to make payments hereunder to the industrial accident fund shall  
9 be primarily liable for such payment and for interest and penalties  
10 thereon which shall accrue as above provided. A lien is hereby  
11 created in favor of the Board on all real property within this  
12 Territory upon which labor has been performed by the workmen of  
13 any employer required to make such payments hereunder in a sum  
14 equal to the amount at any time due from such employer to the  
15 Board on account of labor performed by the workmen of such employer  
16 together with such interest and penalty upon such real property or  
17 any structure or improvement and any personal property of such  
18 employer. In order to avail itself of the lien, the Board shall,  
19 within 60 days after the employer liable defaults in such payment,  
20 file with the Recorder of the precinct within which such property  
21 shall then be situated a statement in writing describing the pro-  
22 perty upon which a lien is claimed and stating the amount of the  
23 lien claimed. From and after the filing of such notice of claim  
24 of lien and at any time within six months therefrom, the Board  
25 shall commence suit to foreclose such lien in the manner provided  
26 by law for the foreclosure of other liens on real or personal  
27 property.

28       Sec. 14. INJURY DURING DEFAULT. When any employer is in  
29 default in the payment of any contribution required by this Act

1 and an injury occurs to any of his workmen during the period of  
2 such default, if such default be after demand for payment, such  
3 employer shall not be entitled to any of the benefits of this Act,  
4 but shall be liable to the injured workman, or to those claiming  
5 under him in case of death, as he would have been prior to the  
6 passage of this Act.

7       Sec. 15. ASSIGNMENT OF CAUSE. In case the recovery actually  
8 collected from the employer as provided in Section 14 herein  
9 shall equal or exceed the compensation to which the claimant would  
10 be entitled under the Workmen's Compensation Act of Alaska, the  
11 claimant shall be entitled to nothing out of the Industrial Acci-  
12 dent Fund. If such amount shall be less than the compensation  
13 provided by said Workmen's Compensation Act, the Board shall con-  
14 tribute out of the Industrial Accident Fund the amount of such  
15 deficiency.

16       The person entitled to a right of action under Section 14  
17 shall have the choice, to be exercised before commencing suit  
18 against such defaulting employer, of proceeding by suit against  
19 such employer or of taking compensation under the Workmen's Com-  
20 pensation Act. If such person elects to take compensation under  
21 said Workmen's Compensation Act, the cause of action shall be  
22 assigned to the Board for the benefit of the Industrial Accident  
23 Fund. In any suit brought upon such cause of action it shall be  
24 no defense for such employer to show (a) that the injury was  
25 caused in whole or in part by the negligence of a fellow servant  
26 of the injured workman; (b) that the negligence of the injured  
27 workman, other than his wilful act, committed for the purpose of  
28 sustaining the injury, contributed to the accident; or, (c) that  
29 the injured workman had knowledge of the danger or assumed the

1 risk which resulted in his injury.

2       Sec. 16. COMPROMISE. Any such cause of action assigned to  
3 the Board may be prosecuted or compromised by it in its discretion.  
4 Any compromise by an individual claimant which would result in a  
5 deficiency under the Workmen's Compensation Act may be compensated  
6 as provided in Section 15 from the Industrial Accident Fund, in  
7 the sole and absolute discretion of the Workmen's Compensation  
8 Board.

9       Sec. 17. SAVING CLAUSE. This Act shall not affect any  
10 action pending or cause of action existing on or before the first  
11 day of January, 1956. This Act is intended to be supplemental to  
12 the Workmen's Compensation Act; Provided, however, that the  
13 liability of an employer as provided by Sections 3 and 4 of  
14 Senate Bill No. 81, Legislature of the Territory of Alaska,  
15 Twenty-second Regular Session, 1955, is hereby assumed by the  
16 Territorial Government through the Industrial Accident Fund as  
17 aforesaid; and, Provided, that the assumption of liability herein  
18 shall not be a pledge of the faith and credit of the Territory,  
19 but shall be limited to the amounts in the Industrial Accident  
20 Fund as provided in this Act.

21       Sec. 18. REPEALER. Sections 13, 14, 16, 17, 20, 30, 31 of  
22 Senate Bill No. 81, Twenty-second Regular Session, Legislature of  
23 the Territory of Alaska, 1955; and Sections 43-3-18, 43-3-19,  
24 43-3-20, 43-3-21, 43-3-25, 43-3-27, 43-3-32, 43-3-33 and 43-3-34  
25 ACLA, 1949, and Section 43-3-5, ACLA, 1949, as amended by Chapter  
26 104, SLA, 1949, are hereby repealed.

27       Sec. 19. An emergency is hereby declared to exist and this  
28 Act shall take effect and be in force generally from and after  
29 its passage and approval or upon its becoming law without such

1 approval; Provided, however, that the Board may commence prepara-  
2 tion for operation and management of the Industrial Accident Fund  
3 herein created but that no contributions to nor any payments from  
4 such fund shall be made until after January 1, 1956.  
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