

BY MESSRS. BUCKALEW, YOUNG, GREUEL,
METCALF, HOPSON, AND MESDAMES RYAN
AND H. FISCHER

1 IN THE HOUSE

2 HOUSE BILL NO.164

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-THIRD SESSION

5 A BILL

6 For an Act entitled: "An Act to create an industrial accident
7 fund within the Territorial Treasury; pro-
8 viding for payments from the fund and the
9 replenishment thereof; repealing Secs. 13,
10 14, 16, 17, 20, 30, 31 of Senate Bill No,
11 20, 23rd Regular Session, Legislature of the
12 Territory of Alaska, 1957; and repealing
13 Secs. 43-3-18, 43-3-19, 43-3-20, 43-3-21,
14 43-3-25, 43-3-27, 43-3-32, 43-3-33 and
15 43-3-34, ACLA 1949, and Sec. 43-3-5, ACLA
16 1948, as amended by Ch. 104, SLA 1949; and
17 declaring an emergency."

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

19 Section 1. CONDITIONS DEMANDING THE LAW. The Legislature
20 hereby recognizes that injury to workmen, resulting in their
21 partial or total incapacity or death, and compensation therefore
22 under the rules of the common law and the statutes now in force,
23 create an unequal burden upon the citizens of Alaska. Therefore,
24 by this Act the Legislature intends to provide sure and certain
25 relief for workers injured, and their families and dependents,
26 regardless of questions of fault and to the exclusion of every
27 other remedy, proceeding or compensation, except as otherwise pro-
28 vided in this Act; and to that end the remedies of this Act shall
29 be exclusive and prerequisite to any court proceeding, except as

1 provided in this Act.

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

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

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

1 penalty of not less than Twenty-five (\$25.00) Dollars nor more
2 than One Hundred (\$100.00) Dollars, for each such offense.

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

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

24 Sec. 7 CLASSIFICATION. The Board shall on or before the
25 first day of January, 1953 establish rates and annually thereafter
26 make corrections of classifications or premium rating as between
27 classes of industries if, and as, experience shall show that
28 differential rates are necessary to provide that each class of
29 industry shall meet and be liable for accidents happening in each

1 such class. The Board shall keep accounts of each industry in
2 accordance with classifications established by said Board.

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

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

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

1 compensation shall be paid from the Industrial Accident Fund
2 based upon awards made by the Board. Payments shall be certified
3 by voucher signed by the Chairman of the Board.

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

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

27 Sec. 12. NOTICE OF DEFAULT: DISPLAY. Every employer in
28 default in the payment of any contributions required by this Act,
29 and who shall have received from the Board a formal notice of

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

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

27 Sec. 14. INJURY DURING DEFAULT. When any employer is in
28 default in the payment of any contribution required by this Act
29 and an injury occurs to any of his workmen during the period of

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

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

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

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

8 Sec. 17. SAVING CLAUSE. This Act shall not affect any
9 action pending or cause of action existing on or before the first
10 day of January, 1958. This Act is intended to be supplemental to
11 the Workmen's Compensation Act; Provided, however, that the
12 liability of an employer as provided by Sections 3 and 4 of
13 Senate Bill No. 22, Legislature of the Territory of Alaska,
14 Twenty-third Regular Session, 1957, is hereby assumed by the
15 Territorial Government through the Industrial Accident Fund as
16 aforesaid; and, Provided, that the assumption of liability herein
17 shall not be a pledge of the faith and credit of the Territory,
18 but shall be limited to the amounts in the Industrial Accident
19 Fund as provided in this Act.

20 Sec. 18. REPEALER. Sections 13, 14, 16, 17, 20, 30, 31 of
21 Senate Bill No. 22, Twenty-third Regular Session, Legislature of
22 the Territory of Alaska, 1957; and Sections 43-3-18, 43-3-19,
23 43-3-20, 43-3-21, 43-3-25, 43-3-27, 43-3-32, 43-3-33 and 43-3-34
24 ACLA 1949, and Section 43-3-5, ACLA 1949, as amended by Chapter
25 104, SLA 1949, are hereby repealed.

26 Sec. 19. An emergency is hereby declared to exist and this
27 Act shall take effect and be in force generally from and after
28 its passage and approval or upon its becoming law without such
29 approval; Provided, however, that the Board may commence

1 preparation for operation and management of the Industrial
2 Accident Fund herein created but that no contributions to
3 nor any payments from such fund shall be made until after
4 January 1, 1958.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29