

Introduced: 2/28/68
Referred: Labor and
Management and Finance

1 IN THE HOUSE BY THE LABOR AND MANAGEMENT COMMITTEE
2 HOUSE BILL NO. 651
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the payment of workmen's compensa-
7 tion in cases of injury when combined with a pre-
8 existing condition; and providing for an effective
9 date."

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

11 * Section 1. AS 23.30.040 is repealed and re-enacted to read:

12 Sec. 23.30.040. SECOND INJURY FUND. (a) There is created a
13 second injury fund, administered by the commissioner of labor in
14 accordance with the orders and awards of the board.

15 (b) If an employee suffers a compensable injury which results
16 in permanent partial disability, the employer or his insurance carrier
17 shall, in addition to the compensation provided for, pay into the
18 second injury fund a lump sum equal to two per cent of the total
19 compensation to which the employee is entitled for the permanent
20 partial disability, as soon as the total amount of the permanent partial
21 disability payable for the particular injury is determined by the board.
22 If an employee suffers death under this chapter and is at the time of
23 his death unmarried, and leaves no children or dependents, the employer
24 is required to pay to the second injury fund the sum of \$1,500 for the
25 sole benefit of those entitled to participation as provided in this
26 chapter.

27 (c) Each employer or its insurance carrier or self-insured
28 employer shall make payments to the fund in an amount equal to that
29 proportion of 175 per cent of the total disbursement made from the

1 fund during the preceding calendar year less the amount of the net
2 assets in the fund as of December 31 of the preceding calendar year,
3 which the total income benefits paid by the party bore to the total
4 income benefits paid by all carriers and employers during the fiscal
5 year which ended within the preceding calendar year. An employer who
6 has ceased to be a self-insurer shall continue to be liable for any
7 assessments into the fund on account of any income benefits paid by
8 him during the fiscal year.

9 (d) The sums required to be paid into the second injury fund shall
10 be paid for the sole benefit of those entitled to participate under the
11 provisions of this chapter. Disbursements shall be made by the commis-
12 sioner of labor in accordance with the orders and awards of the board.

13 (e) If a deposit or payment has been made into the second injury
14 fund, and it is later shown that there are other beneficiaries or that
15 the beneficiaries designated are entitled to further or greater benefits,
16 or, if deposit or payment has been made by mistake or inadvertence or
17 under such circumstances that justice requires a refund, the board is
18 authorized to refund the deposit or payment.

19 (f) The board may direct and provide the vocational retraining
20 and rehabilitation of a permanently disabled person whose condition is
21 a result of an injury compensable under this chapter by making coopera-
22 tive arrangements with insurance carriers, private organizations and
23 institutions or state or federal agencies. The expense of the retrain-
24 ing or rehabilitation shall be paid out of the second injury fund.
25 The person being retrained or rehabilitated shall receive compensation
26 from the second injury fund for maintenance, in the sum which the
27 board considers necessary, during the period of retraining and rehabili-
28 tation, not exceeding \$100 a month. The total expenditures for main-
29 tenance, training, rehabilitation and necessary transportation may not

1 exceed \$5,000 for one person.

2 (g) All amounts collected as civil penalties under this chapter
3 shall be paid into the second injury fund.

4 * Sec. 2. AS 23.30.205 is repealed and re-enacted to read:

5 Sec. 23.30.205. INJURY COMBINED WITH PRE-EXISTING IMPAIRMENT.

6 (a) If an employee who has a permanent physical impairment from any
7 cause or origin incurs a subsequent disability by injury arising out
8 of and in the course of his employment resulting in compensation
9 liability for disability that is substantially greater by reason of the
10 combined effects of the pre-existing impairment and subsequent injury
11 or by reason of the aggravation of the pre-existing impairment than
12 that which would have resulted from the subsequent injury alone, the
13 employer or his insurance carrier shall in the first instance pay all
14 awards of compensation provided by this chapter, but the employer or
15 his insurance carrier shall be reimbursed from the second injury fund
16 for all compensation payments subsequent to those payable for the first
17 104 weeks of disability.

18 (b) If the subsequent injury of the employee results in the
19 death of the employee and it is determined that the death would not
20 have occurred except for the pre-existing permanent physical impairment
21 the employer or his insurance carrier shall in the first instance pay
22 the compensation prescribed by this chapter, but he or his insurance
23 carrier shall be reimbursed from the second injury fund for all compen-
24 sation payable in excess of 104 weeks.

25 (c) In order to qualify under this section for reimbursement
26 from the second injury fund, the employer must establish by written
27 records that the employer had knowledge of the permanent physical
28 impairment before the subsequent injury and that the employee was
29 hired or retrained in employment after the employer acquired that

1 knowledge.

2 (d) As used in this section, "permanent physical impairment"
3 means any permanent condition, whether congenital or due to injury
4 or disease, of such seriousness as to constitute a hindrance or
5 obstacle to obtaining employment or to obtaining re-employment if the
6 employee should become unemployed. No condition may be considered
7 a "permanent physical impairment" unless

8 (1) it is one of the following conditions:

- 9 (A) epilepsy,
10 (B) diabetes,
11 (C) cardiac disease,
12 (D) arthritis,
13 (E) amputated foot, leg, arm or hand,
14 (F) loss of sight of one or both eyes or a partial
15 loss of uncorrected vision of more than 75 per cent bilaterally,
16 (G) residual disability from poliomyelitis,
17 (H) cerebral palsy,
18 (I) multiple sclerosis,
19 (J) Parkinson's disease,
20 (K) cerebral vascular accident,
21 (L) tuberculosis,
22 (M) silicosis,
23 (N) haemophilia,
24 (O) chronic osteomyelitis,
25 (P) osteoporosis,
26 (Q) ankylosis of joints,
27 (R) hyperinsulism,
28 (S) muscular dystrophies,
29 (T) arteriosclerosis,

- (U) thrombophlebitis,
- (V) varicose veins,
- (W) heavy metal poisoning,
- (X) ionizing radiation injury,
- (Y) compressed air sequelae,
- (Z) ruptured intervertebral disk,
- (AA) spondylolisthesis, or

(2) unless it would support a rating of disability of 200 weeks or more if evaluated according to standards applied in compensation claims.

(e) The second injury fund shall not be bound as to any question of law or fact by reason of an award or an adjudication to which it was not a party or in relation to which it was not notified at least three weeks before the award or adjudication, that it might be subject to liability for the injury or death.

(f) An employer or its carrier shall notify the commissioner of labor of any possible claim against the second injury fund as soon as practicable, but in no event later than 100 weeks after the employer or its carrier have knowledge of the injury or death.

* Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.