

Original sponsor: Rules Committee by
request of the Legislative Council
Subcommittee on Workmen's Compensation

Offered: 4/20/76
Referred: Rules

1 IN THE SENATE

BY THE LABOR AND MANAGEMENT COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 569

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workmen's compensation."

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

8 * Section 1. AS 21.39 is amended by adding a new section to read:

9 Sec. 21.39.155. ASSIGNED RISK POOL. (a) The director may require
10 carriers, as a condition of writing a line of insurance dealing with
11 workmen's compensation, to participate in an assigned risk pool if the
12 director finds that mandatory carrier participation is in the public
13 interest.

14 (b) The assigned risk pool and the procedures to be followed in
15 administering the pool shall be established by regulation.

16 * Sec. 2. AS 23.30.130(a) is amended to read:

17 (a) Upon its own initiative, or upon the application of any party
18 in interest on the ground of a change in conditions, including, for the
19 purposes of sec. 175 of this chapter, a change in residence, or because
20 of a mistake in its determination of a fact, the board may, before one
21 year after the date of the last payment of compensation, whether or not
22 a compensation order has been issued, or before one year after the
23 rejection of a claim, review a compensation case in accordance with
24 the procedure prescribed in respect of claims in sec. 110 of this
25 chapter. In accordance with sec. 110 of this chapter the board may
26 issue a new compensation order which terminates, continues, reinstates,
27 increases, or decreases the compensation, or award compensation.

28 * Sec. 3. AS 23.30.172 is amended to read:

29 Sec. 23.30.172. BENEFIT ADJUSTMENTS. Benefits for temporary and

1 January 1, 1981 200 per cent of the Alaska [STATE'S]
2 average weekly wage

3 (b) As soon as practicable after June 30 of each year, and before
4 December 15 of each year, the commissioner shall determine the Alaska
5 [STATE] average weekly wage for the three consecutive calendar quarters
6 ending June 30. This determination is the applicable Alaska [STATE]
7 average weekly wage for the annual period beginning with January 1 of
8 the next year and ending December 31. The initial determination under
9 this subsection shall be made as soon as practicable after May 22, 1975.
10 The average weekly wage calculation for Alaska shall be based on the
11 wages of all employees in the state, both public and private, who are
12 covered by this chapter [THE EFFECTIVE DATE OF THIS SUBSECTION].

13 * Sec. 5. AS 23.30.175 is amended by adding new subsections to read:

14 (c) For the purposes of determining the average weekly wage of
15 a state other than Alaska, the commissioner shall adopt the average
16 weekly wage as computed and published by the state agency responsible
17 for administering the workmen's compensation laws of that state. For
18 those states in which no such figure is published, the commissioner
19 shall adopt the average weekly wage for that state as published by the
20 United States Secretary of Labor for the purposes of the Longshoremen's
21 and Harbor Workers' Compensation Act (P.L. 69-803; 44 Stat. 1424; 33
22 U.S.C. 901 et seq.). The average weekly wage as calculated for all
23 states shall be made available to the public.

24 (d) For a recipient who resides in a state other than Alaska, the
25 weekly rate of compensation shall be the weekly grant he would have
26 received if he resided in Alaska times the ratio of the average weekly
27 wage of the state in which he resides and the average weekly wage of
28 Alaska. For the purposes of this chapter, absence from Alaska for a
29 continuous period of more than 90 days creates a rebuttable presumption

1 of nonresidential status; however, this presumption does not arise if
2 the absence from Alaska is for medical or rehabilitation services.

3 (e) For a recipient who resides in a jurisdiction other than a
4 state as defined in (f) of this section, the weekly rate of compensation
5 shall be the weekly grant he would have received if he resided in Alaska
6 times the ratio of the average weekly wage of the jurisdiction in which
7 he resides, as determined by the commissioner, and the average weekly
8 wage of Alaska.

9 (f) In this section "state" means a state of the United States,
10 the District of Columbia, Puerto Rico, the Virgin Islands, American
11 Samoa, Guam, and the Trust Territory of the Pacific Islands.

12 * Sec. 6. AS 23.30.190 is amended by adding a new subsection to read:

13 (b) Total compensation paid under this section shall not exceed
14 \$60,000.

15 * Sec. 7. AS 23.30.215(a) is repealed and re-enacted to read:

16 (a) If the injury causes death, the compensation is known as a
17 death benefit and is payable as follows:

18 (1) reasonable and necessary funeral expenses not exceeding
19 \$1,000;

20 (2) if there is a widow or widower or a child or children of
21 the deceased, the following percentages of the average weekly wage of
22 the deceased shall be paid, but in no case may the compensation exceed
23 66 2/3 per cent of the average weekly wage, except as provided in (b) of
24 this section:

25 (A) 66 2/3 per cent for the widow or widower with no
26 children;

27 (B) 33 1/3 per cent for the widow or widower with one
28 child and 33 1/3 per cent for the child;

29 (C) 20 per cent for the widow or widower with two or

1 more children and $46 \frac{2}{3}$ per cent divided equally among the children;

2 (D) $33 \frac{1}{3}$ per cent for an only child when there is no
3 widow or widower;

4 (E) $66 \frac{2}{3}$ per cent divided equally among the children
5 when there are two or more children and there is no widow or
6 widower;

7 (3) if the widow or widower remarries, she or he is entitled
8 to a single payment equal to two years of the weekly compensation paid
9 on her or his account;

10 (4) if there is no widow or widower or child or children,
11 then for the support of the deceased's father, mother, grandchildren,
12 brothers and sisters, if actually dependent upon the deceased at the
13 time of injury for more than 50 per cent of their support, $33 \frac{1}{3}$ per
14 cent of the average weekly wage of the deceased to those beneficiaries,
15 divided equally.

16 * Sec. 8. AS 23.30.220 is repealed and re-enacted to read:

17 Sec. 23.30.220. DETERMINATION OF AVERAGE WEEKLY WAGE. Except as
18 otherwise provided in this chapter, the average weekly wage of the
19 injured employee at the time of the injury is the basis for computing
20 compensation, and is determined as follows:

21 (1) the average weekly wage of the injured employee is calcu-
22 lated by dividing 52 into the total wages earned, including self-
23 employment, in any one of the three calendar years that is most favorable
24 to the employee, immediately preceding the injury;

25 (2) if the board determines that the wage at the time of the
26 injury cannot be fairly calculated under (1) of this section, or cannot
27 otherwise be ascertained without undue hardship to the employee, the
28 wage for calculating compensation shall be the usual wage for similar
29 service rendered by paid employees under similar circumstances, as

1 determined by the board;

2 (3) if an employee is a minor or an apprentice, or a trainee,
3 as determined by the board, when injured and under normal conditions his
4 wages would increase during the period of disability, this fact shall be
5 considered in computing his average weekly wage;

6 (4) if the employee is injured while performing his duties as
7 a volunteer fireman, the wage for calculating compensation shall be the
8 minimum wage paid a full-time fireman in the political subdivision where
9 the injury occurred, or, if the subdivision has no full-time firemen
10 employed, at a reasonable wage figure previously set by the subdivision
11 for the purpose of making this determination and in no case may the wage
12 for calculating compensation be less than the minimum wage computed on
13 the basis of 40 hours work per week.

14 * Sec. 9. AS 23.30 is amended by adding a new section to read:

15 Sec. 23.30.225. OFFSET FOR OTHER BENEFITS. (a) The compensation
16 provided for in this chapter shall be reduced by an amount equal to one-
17 half of the periodic disability, old age, or survivors benefits, as
18 appropriate, which are received under Title II of the Social Security
19 Act (P.L. 79-271; 49 Stat. 622; 42 U.S.C. 301 et seq.).

20 (b) When an employer provides to the employee, under the terms of
21 the employment contract, the employee's full wages for days missed due
22 to disability or injury, that medical leave pay shall be reduced by the
23 amount of disability compensation payments made under the Alaska Work-
24 men's Compensation Act.
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