

Original Sponsor: Labor and Management  
Committee

Offered: 4/20/76  
Referred: Rules

1 IN THE SENATE BY THE LABOR AND MANAGEMENT COMMITTEE

2 CS FOR SENATE BILL NO. 728 am H

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 23.30.005(h) and (i) are amended to read:

9 (h) The Department of Labor [FULL BOARD] may make identical rules  
10 for both panels and may make regulations to carry out the provisions of  
11 this chapter. Process and procedure under this chapter shall be as  
12 summary and simple as possible. The Department of Labor, the board or a  
13 member of it may for the purposes of this chapter subpoena witnesses,  
14 administer or cause to be administered oaths, and may examine or cause  
15 to have examined the parts of the books and records of the parties to a  
16 proceeding which relate to questions in dispute. The superior court,  
17 on application of the Department of Labor, the board or any members of  
18 it, shall enforce the attendance and testimony of witnesses and the pro-  
19 duction and examination of books, papers, and records.

20 (i) The Department of Labor [BOARD] may establish regulations con-  
21 cerning the medical care provided for in this chapter. In addition to  
22 the reports required of physicians under sec. 95(a) - (d) of this  
23 chapter, the board may direct a physician or hospital rendering medical  
24 treatment or service under this chapter to furnish to the board periodic  
25 reports of treatment or services on forms procured from the board.

26 \* Sec. 2. AS 23.30.005 is amended by adding a new paragraph to read:

27 (1) Rules and regulations established by the Department of  
28 Labor under (h) and (i) of this section become effective only after  
29 approved by a majority of the full board.

1 \* Sec. 3. AS 21.39 is amended by adding a new section to read:

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

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

9 \* Sec. 4. AS 23.30.130(a) is amended to read:

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

21 \* Sec. 5. AS 23.30.172 is amended to read:

22       Sec. 23.30.172. BENEFIT ADJUSTMENTS. Benefits for temporary total  
23 disability cases which have existed for more than two years and  
24 permanent total disability shall be calculated under this chapter accord-  
25 ing to currently existing benefit rates regardless of the benefit rates  
26 in existence at the time of the injury, unless this calculation would  
27 cause a decrease in the actual benefits receivable.

28 \* Sec. 6. AS 23.30.175 is amended to read:

29       Sec. 23.30.175. RATES OF COMPENSATION. (a) The weekly rate of

1 compensation for disability or death for a recipient residing in Alaska  
2 whose average weekly wages, as computed under sec. 220 of this chapter,  
3 are at least \$65 a week, may not exceed the percentage of the Alaska  
4 [STATE] average weekly wage as determined by the table contained in this  
5 subsection and may not be less than \$65 a week. If the employee's  
6 average weekly wages, as computed under sec. 220 of this chapter, are  
7 less than \$65 a week, he shall receive as compensation for his disability  
8 his average weekly wages.

9 On	The Rate Shall Be
10 July 1, 1975	80 per cent of the Alaska [STATE'S] 11 average weekly wage
12 January 1, 1976	100 per cent of the Alaska [STATE'S] 13 average weekly wage
14 January 1, 1977	133.3 per cent of the Alaska [STATE'S] 15 average weekly wage
16 January 1, 1979	166.6 per cent of the Alaska [STATE'S] 17 average weekly wage
18 January 1, 1981	200 per cent of the Alaska [STATE'S] 19 average weekly wage

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

1 \* Sec. 7. AS 23.30.175 is amended by adding new subsections to read:

2 (c) For the purposes of determining the average weekly wage of  
3 a state other than Alaska, the commissioner shall adopt the average  
4 weekly wage as computed and published by the state agency responsible  
5 for administering the workmen's compensation laws of that state. For  
6 those states in which no such figure is published, the commissioner  
7 shall adopt the average weekly wage for that state as published by the  
8 United States Secretary of Labor for the purposes of the Longshoremen's  
9 and Harbor Workers' Compensation Act (P.L. 69-803; 44 Stat. 1424; 33  
10 U.S.C. 901 et seq.). The average weekly wage as calculated for all  
11 states shall be made available to the public.

12 (d) For a recipient who resides in a state other than Alaska, the  
13 weekly rate of compensation shall be the weekly grant he would have  
14 received if he resided in Alaska times the ratio of the average weekly  
15 wage of the state in which he resides and the average weekly wage of  
16 Alaska. For the purposes of this chapter, absence from Alaska for a  
17 continuous period of more than 90 days creates a rebuttable presumption  
18 of nonresidential status; however, this presumption does not arise if  
19 the absence from Alaska is for medical or rehabilitation services.

20 (e) For a recipient who resides in a jurisdiction other than a  
21 state as defined in (f) of this section, the weekly rate of compensation  
22 shall be the weekly grant he would have received if he resided in Alaska  
23 times the ratio of the average weekly wage of the jurisdiction in which  
24 he resides, as determined by the commissioner, and the average weekly  
25 wage of Alaska.

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

29 \* Sec. 8. AS 23.30.215(a) is repealed and re-enacted to read:

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

3 (1) reasonable and necessary funeral expenses not exceeding  
4 \$1,000;

5 (2) if there is a widow or widower or a child or children of  
6 the deceased, the following percentages of the average weekly wage of  
7 the deceased shall be paid, but in no case may the compensation exceed  
8 66 2/3 per cent of the average weekly wage, except as provided in (b) of  
9 this section and (5) of this subsection:

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

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

14 (C) 20 per cent for the widow or widower with two or  
15 more children and 46 2/3 per cent divided equally among the children;

16 (D) 33 1/3 per cent for an only child when there is no  
17 widow or widower;

18 (E) 66 2/3 per cent divided equally among the children  
19 when there are two or more children and there is no widow or  
20 widower;

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

24 (4) if there is no widow or widower or child or children,  
25 then for the support of the deceased's father, mother, grandchildren,  
26 brothers and sisters, if actually dependent upon the deceased at the  
27 time of injury for more than 50 per cent of their support, 33 1/3 per  
28 cent of the average weekly wage of the deceased to those beneficiaries,  
29 divided equally;

1 (5) if the deceased was providing support for children of  
2 a previous marriage under a court-ordered decree, in addition to  
3 benefits specified in (1) - (4) of this subsection, those children  
4 shall receive the amount of support specified in the decree, subject  
5 to any limitations of the decree, not to exceed 23 1/3 per cent of  
6 the average weekly wage of the deceased.

7 \* Sec. 9. AS 23.30.220 is repealed and re-enacted to read:

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

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

16 (2) if the board determines that the wage at the time of the  
17 injury cannot be fairly calculated under (1) of this section, or cannot  
18 otherwise be ascertained without undue hardship to the employee, the  
19 wage for calculating compensation shall be the usual wage for similar  
20 service rendered by paid employees under similar circumstances, as  
21 determined by the board;

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

26 (4) if the employee is injured while performing his duties as  
27 a volunteer fireman, the wage for calculating compensation shall be the  
28 minimum wage paid a full-time fireman in the political subdivision where  
29 the injury occurred, or, if the subdivision has no full-time firemen

1 employed, at a reasonable wage figure previously set by the subdivision  
2 for the purpose of making this determination and in no case may the wage  
3 for calculating compensation be less than the minimum wage computed on  
4 the basis of 40 hours work per week.

5 \* Sec. 10. AS 23.30 is amended by adding a new section to read:

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

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