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1 IN THE HOUSE

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2 HOUSE BILL NO. 474

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a nonprofit, competitive state compen-  
7 sation insurance fund."

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

9 \* Section 1. AS 23 is amended by adding a new chapter to read:

10 CHAPTER 32. STATE COMPENSATION INSURANCE FUND.

11 ARTICLE 1. ADMINISTRATION.

12 Sec. 23.32.010. APPOINTMENT OF DIRECTOR. (a) The director of the  
13 state compensation insurance fund is appointed by the governor for a  
14 term of six years or until his successor is appointed, subject to con-  
15 firmation by a majority of the members of the legislature in joint  
16 session. The governor may remove the director with the consent of a  
17 majority of the members of the legislature in joint session. The salary  
18 of the director shall be the same as for the deputy head of a principal  
19 executive department of the state.

20 (b) Before entering on the duties of his office, the director  
21 shall qualify by giving an official bond in an amount and with sureties  
22 approved by the governor. The director shall file the bond with the  
23 lieutenant governor.

24 Sec. 23.32.020. GENERAL POWER. The director has full power,  
25 authority, and jurisdiction over the fund. He may perform all acts  
26 necessary or convenient in the exercise of any power, authority, or jur-  
27 isdiction over the fund, either in the administration of the fund or in  
28 connection with the insurance business to be carried on by the fund  
29 under the provisions of this chapter, as fully and completely as the

1 governing body of a private insurance carrier.

2 Sec. 23.32.030. REGULATIONS. The director may adopt regulations  
3 relating to the conduct of the business of the fund.

4 Sec. 23.32.040. AUDIT. The director and the commissioner of  
5 revenue shall have an annual audit of the books and records of the fund  
6 made by a duly qualified, certified public accountant and have an ab-  
7 stract summary of this audit prepared for public use. The Legislative  
8 Budget and Audit Committee may at any time inspect all the records,  
9 accounts and books of the fund.

10 Sec. 23.32.050. DIVIDEND OR CREDIT ALLOWANCE. The director shall  
11 regularly ascertain the actual loss experience and expense of the fund.  
12 Except as provided in sec. 130 of this chapter, if the director finds  
13 that there is an excess of assets over liabilities and necessary re-  
14 serves, he may declare a cash dividend or allow credit on the renewal  
15 premium of each employer who has been insured with the fund. If a cash  
16 dividend or credit is allowed, the director, considering policy size and  
17 experience, shall, under regulations adopted by him and furnished to  
18 policyholders, allow each employer his proportionate share of the divi-  
19 sible surplus.

20 Sec. 23.32.060. ADMINISTRATIVE POWERS. In conducting the business  
21 and affairs of the fund the director may

22 (1) cause the payrolls of employers applying for insurance or  
23 insured by the fund to be inspected and audited;

24 (2) make regulations for settling claims against the fund and  
25 for determining to whom and through whom payments of compensation are to  
26 be made; however, the Alaska Workmen's Compensation Board shall have  
27 jurisdiction as provided by law in respect to claims brought before the  
28 board;

29 (3) contract with physicians, surgeons, hospitals, and re-

1 habilitation facilities for medical, surgical, and rehabilitation treat-  
2 ment and the care and nursing of injured persons entitled to benefits  
3 from the fund;

4 (4) make safety inspections of risks and furnish advisory  
5 services to employers on safety and health measures;

6 (5) act for the fund in collecting and disbursing money  
7 necessary to administer the fund and the conduct of the business of the  
8 fund.

9 Sec. 23.32.070. REPORT TO GOVERNOR. Each quarter the director  
10 shall report to the governor the business done by the fund during the  
11 previous quarter and submit to him a statement of the resources and  
12 liabilities of the fund at the close of the previous quarter.

13 ARTICLE 2. POWERS AND DUTIES OF THE FUND.

14 Sec. 23.32.090. CREATION OF FUND. There is created a nonprofit  
15 fund, to be known as the state compensation insurance fund. It is the  
16 intent of the legislature that the fund be self-supporting.

17 Sec. 23.32.100. PURPOSE OF FUND. The purpose of the fund is to  
18 insure employers against liability for injuries sustained by their  
19 employees and to assure to employees and other persons the compensation  
20 and benefits provided under the Alaska Workmen's Compensation Act (AS  
21 23.30).

22 Sec. 23.32.110. POWER TO INSURE. (a) The fund shall insure com-  
23 pensable injuries and illnesses required or authorized to be insured  
24 under the Alaska Workmen's Compensation Act (AS 23.30). Employers who  
25 are subject to the Alaska Workmen's Compensation Act, and who do not  
26 elect to be self-insurers under AS 23.30.075, may purchase compensation  
27 insurance from the fund.

28 (b) The fund may insure employers against their liability for  
29 compensation or damages under the United States Longshoremen's and

1 Harbor Workers' Compensation Act, or any extension of that Act, as fully  
2 as any other insurer.

3 Sec. 23.32.120. CONSTITUTION OF FUND. The fund consists of

4 (1) specific appropriations made to the fund by the legisla-  
5 ture from time to time;

6 (2) all premiums received and paid into the fund for in-  
7 surance issued by it;

8 (3) all property and securities acquired by and through the  
9 use of money belonging to the fund and acquired by gift or otherwise;

10 (4) all interest and dividends earned upon money belonging to  
11 the fund and deposited or invested as provided in this chapter.

12 Sec. 23.32.130. DISBURSEMENT OF FUNDS. The fund shall use its  
13 assets to pay compensation awards due employees of insured employers,  
14 and to pay salaries and administrative expenses charged against it.  
15 Necessary reserves for the payment of losses shall be maintained under  
16 regulations of the director. Five per cent of the premiums collected  
17 from employers insured in the fund shall be set aside by the director  
18 for the creation of a surplus until, in the opinion of the director, the  
19 surplus is sufficiently large to cover the catastrophe hazard and all  
20 other anticipated losses. The fund shall pay money in excess of neces-  
21 sary reserves into the general fund until an amount equal to all appro-  
22 priations to the fund has been paid.

23 Sec. 23.32.140. OFFICES. The fund may rent, lease, buy, sell, and  
24 hold real property as it determines necessary to provide office space  
25 for its operations.

26 Sec. 23.32.150. CUSTODIAN OF FUND. (a) The commissioner of reve-  
27 nue is the custodian of all money and securities belonging to the fund.  
28 He is liable on his official bond for their safekeeping.

29 (b) The director shall deliver all of the money collected or

1 received under this chapter to the commissioner of revenue, or deposit  
2 it in banks in the state designated by the commissioner of revenue.

3 (c) The director shall deliver all securities belonging to the  
4 fund to the commissioner of revenue, who shall hold them until they are  
5 disposed of under the provisions of this chapter.

6 (d) The money of the fund is not state money. Upon receipt of a  
7 delivery of securities or deposit of money, the commissioner of revenue  
8 shall credit the money or securities to the fund.

9 (e) No money may be expended from the fund except on properly  
10 authorized vouchers presented by the director to the commissioner of  
11 administration. However, the fund may maintain a checking account not  
12 to exceed \$150,000 in fund money, from which it may pay, by checks  
13 signed by the director, valid compensation claims, before submitting  
14 vouchers to the commissioner of administration.

15 Sec. 23.32.160. INVESTMENT OF FUNDS. (a) The director may assign  
16 money in the fund which he determines to be in excess of current re-  
17 quirements to the state bond committee. The state bond committee is  
18 responsible for investing money assigned to it by the director.

19 (b) Money of the fund not deposited in the checking account and  
20 not otherwise invested shall be deposited by the commissioner of revenue  
21 in banks authorized by law to receive deposits of public money, under  
22 the same regulations that govern the deposit of public funds. The  
23 interest accruing on the money shall be credited to the fund.

24 Sec. 23.32.170. VALUATION. During the months of January and July  
25 of each year, the commissioner of revenue and the director shall conduct  
26 a valuation of the properties and securities acquired and held by and  
27 for the fund and shall report the results of the valuation to the gover-  
28 nor and other interested parties.

29 Sec. 23.32.180. POWERS OF FUND. The fund may

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1 (1) sue and be sued in actions arising out of acts or omis-  
2 sions in connection with its business or affairs;

3 (2) enter into contracts and obligations relating to the fund  
4 which are authorized or permitted by law;

5 (3) establish premiums for insurance risks covered by this  
6 chapter, based on the employer's payroll, excluding fringe benefits, and  
7 may reinsure a risk or any part of a risk;

8 (4) assist the commissioner of revenue and the state bond  
9 committee in the investment and reinvestment of money belonging to the  
10 fund;

11 (5) conduct all business and affairs and perform all acts  
12 relating to the fund whether or not specifically designated in this  
13 section.

14 ARTICLE 3. MISCELLANEOUS PROVISIONS.

15 Sec. 23.32.200. SERVICE OF PROCESS. Service of process in suits  
16 affecting the fund shall be made upon the director.

17 Sec. 23.32.210. APPEAL TO DIRECTOR OF DIVISION OF INSURANCE. An  
18 employer who is dissatisfied with the rate classification assigned him  
19 by the director may appeal to the director of the division of insurance.  
20 If the director of the division of insurance finds that the classifica-  
21 tion is unfair to the employer, he may change the employer's classifica-  
22 tion. In determining whether or not the classification is unfair, the  
23 director of the division of insurance may take into consideration the  
24 conditions in the industry as a whole, the conditions in the business of  
25 the employer particularly, the classifications used by private insurance  
26 companies, and any other relevant factor.

27 Sec. 23.32.220. DUTY OF PARTIES BASED ON ALASKA WORKMEN'S COMPEN-  
28 SATION ACT. Every policy or contract for the insurance of compensation  
29 and employer's liability provided for in this chapter is subject to the

1 provisions of the Alaska Workmen's Compensation Act (AS 23.30).

2 Sec. 23.32.230. LIABILITY OF EMPLOYER. An employer who inten-  
3 tionally misrepresents any material fact upon which his premium under  
4 this chapter is to be based is liable to the fund for 10 times the  
5 amount of the difference in the premium paid and the amount the employer  
6 should have paid if his payroll had been correctly computed.

7 Sec. 23.32.240. APPLICABLE ACTS. The provisions of the Adminis-  
8 trative Procedure Act (AS 44.62) are not applicable to the fund. Em-  
9 ployees of the fund are covered by the provisions of the Public Em-  
10 ployees' Retirement System of Alaska, but are not covered by the pro-  
11 visions of the State Personnel Act (AS 39.25).

12 Sec. 23.32.250. FUND REGULATIONS, POLICIES AND PROCEDURES. All  
13 regulations, policies and procedures of the fund shall be governed by  
14 the requirements of ch. 30 of this title and the Alaska Workmen's Com-  
15 pensation Board to the same extent as any insurance carrier.

16 Sec. 23.32.260. USE OF FUND NAME. Business and affairs of the  
17 fund, including litigation, are conducted in the name of the fund.

18 ARTICLE 4. GENERAL PROVISIONS.

19 Sec. 23.32.270. DEFINITIONS. In this chapter

20 (1) "director" means the state compensation insurance fund  
21 director; and

22 (2) "fund" means the state compensation insurance fund.

23 \* Sec. 2. AS 21.80.180(6) is amended to read:

24 (6) "member insurer" means a person, except the Medical In-  
25 demnity Corporation of Alaska and the Health Care Providers Joint Under-  
26 writing Association established under ch. 88 of this title and the state  
27 compensation insurance fund established under AS 23.32, who

28 (A) writes any kind of insurance to which this chapter  
29 applies under sec. 20 of this chapter including the exchange of

1 reciprocal or inter-insurance contracts, and

2 (B) is licensed to transact insurance in this state;

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