

Introduced: 2/12/79  
Referred: Labor & Management  
and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 177 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unemployment insurance; and pro-  
7 viding for an effective date."

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

9 \* Section 1. AS 23.20.045(b) is amended to read:

10 (b) Special rules may be adopted, amended, or rescinded by the  
11 department only after public hearing or opportunity to be heard on  
12 them, of which proper notice has been given. A special rule becomes  
13 effective 30 days after notification to or mailing to the last [KNOWN]  
14 address of record of the persons affected by it.

15 \* Sec. 2. AS 23.20.115 is amended to read:

16 Sec. 23.20.115. UNAUTHORIZED DISCLOSURE OF INFORMATION. A  
17 member of the department, [OR] an employee of the department, or an  
18 agent of the department who, in violation of sec. 110 of this chapter,  
19 makes a disclosure of information obtained from an employing unit or  
20 from an individual in the administration of this chapter, or a person  
21 who has obtained a list of applicants for work or of claimants or  
22 recipients of benefits under this chapter and who uses or permits the  
23 use of the list for a purpose not authorized by sec. 110 of this  
24 chapter, upon conviction, is punishable by a fine of not more than  
25 \$200, or by imprisonment for not more than 90 days, or by both.

26 \* Sec. 3. AS 23.20.130(b)(9) is amended to read:

27 (9) reimbursement of benefits paid under secs. 277 and [.]  
28 278 [AND 326] of this chapter, and reimbursement of benefits paid  
29 under sec. 326 of this chapter as it read prior to January 1, 1978; and

1 \* Sec. 4. AS 23.20.135 is amended to read:

2           Sec. 23.20.135. ACCOUNTS AND DEPOSIT. (a) The commissioner of  
3 revenue is ex officio the treasurer and custodian of the fund and  
4 shall administer it as directed by the department. Checks or warrants  
5 shall be issued on the fund in accordance with the regulations which  
6 the department prescribes. The [COMMISSIONER OF REVENUE SHALL MAIN-  
7 TAIN WITHIN THE] fund has three separate accounts:

- 8                   (1) a clearing account,  
9                   (2) an unemployment trust fund account, and  
10                   (3) a benefit account.

11           (b) The department, or its designee, [SHALL FORWARD, UPON  
12 RECEIPT, ALL MONEY PAYABLE TO THE FUND TO THE COMMISSIONER OF REVENUE  
13 WHO] shall immediately deposit, upon receipt, all money payable to the  
14 fund [THEM] in the clearing account. Refunds of contributions errone-  
15 ously collected and payable under secs. 225 and 526(a)(11) [525(c)(11)]  
16 of this chapter may be paid from the clearing account in the same  
17 manner, if they were deposited in the unemployment compensation fund,  
18 or from the training and building fund; however, interest and penalty  
19 payments collected on and after June 30, 1969 may not be refunded from  
20 the unemployment compensation fund. After clearance, all money in the  
21 clearing account shall be immediately deposited with the Secretary of  
22 the Treasury of the United States to the credit of the account of this  
23 state in the unemployment trust fund, established and maintained under  
24 sec. 904 of the Social Security Act, as amended.

25           (c) The benefit account consists of money requisitioned from  
26 this state's account in the unemployment trust fund for the purpose of  
27 paying benefits. Money in the clearing and benefit accounts may be  
28 deposited by the department's designee [COMMISSIONER OF REVENUE],  
29 under the direction of the department, in a bank or public depository

1 in which general funds of the state may be deposited, but no public  
2 deposit insurance charge or premium may be paid out of the fund.  
3 Money in these accounts may not be commingled with other state funds,  
4 but shall be maintained in separate accounts on the books of the  
5 depository bank. The money is secured by the depository law of this  
6 state. Collateral pledged for this purpose shall be kept separate and  
7 distinct from collateral pledged to secure other funds of the state.  
8 The commissioner of revenue is liable on his official bond for the  
9 faithful performance of his duties in connection with the fund. Sums  
10 recovered for losses sustained by the fund shall be deposited in the  
11 fund.

12 \* Sec. 5. AS 23.20.145(b) is amended to read:

13 (b) The department shall from time to time requisition from the  
14 unemployment trust fund amounts not exceeding the amounts standing to  
15 the state's account in the fund which it considers necessary for the  
16 payment of benefits for a reasonable future period. Upon receipt of  
17 an amount the department [COMMISSIONER OF REVENUE] shall deposit the  
18 money to the benefit account. A check or warrant for the payment of  
19 benefits may be issued solely from the benefit account.

20 \* Sec. 6. AS 23.20.145(c) is amended to read:

21 (c) If money in the clearing account is not sufficient to provide  
22 for refunds of contributions erroneously collected and payable under  
23 secs. 225 and 526(a)(11) of this chapter, the department shall with-  
24 draw from the unemployment trust fund the amounts not exceeding the  
25 amount standing to this state's account in the fund which are necessary  
26 for the payment of the refunds, if the erroneously collected interest  
27 and penalties were deposited and retained in the unemployment compensa-  
28 tion fund, but no amounts may be withdrawn from the unemployment trust  
29 fund for the refund of interest and penalty payments collected on and

1 after June 30, 1969. Upon receipt the department, or its designee,  
2 [COMMISSIONER OF REVENUE] shall deposit this money to the clearing  
3 account. A check or warrant for the payment of a refund shall be  
4 issued from the clearing account.

5 \* Sec. 7. AS 23.20.205(b) is amended to read:

6 (b) If the notice is served by mail the notice must be deposited  
7 in the post office, addressed to the delinquent employer at his last  
8 [KNOWN] address of record and the postage paid. The date of service  
9 is considered to be the day of delivery shown on the delivery receipt.  
10 However, if it appears the addressee is deliberately avoiding service,  
11 then the date of service is the day of mailing.

12 \* Sec. 8. AS 23.20.277(h) is amended to read:

13 (h) The amount due, specified in a bill from the department, is  
14 conclusive on the organization unless, not later than 15 days after  
15 the bill was mailed to its last [KNOWN] address of record or otherwise  
16 delivered to it, the organization files an application for redetermi-  
17 nation by the department, setting out the grounds for the application.  
18 The department shall promptly review and reconsider the amount due  
19 specified in the bill and shall thereafter issue a redetermination in  
20 any case in which an application for redetermination has been filed.  
21 Any redetermination is conclusive on the organization unless, not  
22 later than 15 days after the redetermination was mailed to its last  
23 [KNOWN] address of record or otherwise delivered to it, the organiza-  
24 tion files an appeal to the commissioner, setting out the grounds for  
25 the appeal. Proceedings on appeal to the commissioner from the amount  
26 of a bill rendered under this subsection or a redetermination of the  
27 amount shall be in accordance with the provisions of secs. 410 - 470  
28 [455] of this chapter.

29 \* Sec. 9. AS 23.20.277(1) is amended to read:

1 (1) Each employer that is liable for payments in place of contri-  
2 butions shall pay to the department for the fund the amount of regular  
3 benefits plus the amount of one-half of extended benefits paid that  
4 are attributable to service in the employ of that [SUCH AN] employer.  
5 However, a government entity which has elected to make payments under  
6 this section is liable for the amount of regular benefits plus the  
7 full amount of extended benefits which are attributable to service in  
8 the employ of that entity. If benefits paid to an individual are  
9 based on wages paid by more than one employer and one or more of these  
10 employers are liable for payments in place of contributions, the  
11 amount payable to the fund by each employer that is liable for payments  
12 shall be determined by the department in accordance with regulations  
13 adopted [PROMULGATED] by the department.

14 \* Sec. 10. AS 23.20.280(a) is amended to read:

15 (a) An employer is [AND HIS EMPLOYEES ARE] eligible for a rate  
16 determination in accordance with the provisions of secs. 280 - 310 of  
17 this chapter and the department's [COMMISSIONER'S] regulations if the  
18 employer has been subject to this chapter throughout not less than the  
19 four consecutive calendar quarters ending with the computation date  
20 and remains subject to this chapter into the calendar quarter which  
21 immediately precedes the effective date of the rate. No employer [OR  
22 EMPLOYEE] is eligible for a rate determination under secs. 280 - 310  
23 of this chapter if, with respect to a calendar quarter in or preceding  
24 his qualifying period, the employer has failed to file contribution or  
25 payroll reports or to pay contributions, interest and penalties  
26 required by this chapter within 60 days after the computation date or  
27 within 10 days after the department has mailed the employer written  
28 notice of the delinquency or of failure to file reports, or of both,  
29 by registered or certified mail to his last [KNOWN] address of record.

1           whichever is the later date.

2       \* Sec. 11. AS 23.20.305(a) is amended to read:

3           (a) The department shall promptly notify each employer of his  
4           rate of contributions as determined for a calendar year under secs.  
5           280 - 310 of this chapter. The determination becomes conclusive upon  
6           the employer unless within 15 days after the notice is mailed to his  
7           last [KNOWN] address of record or delivered to him, the employer files  
8           an application for review and redetermination, setting out his reasons  
9           for the application.

10       \* Sec. 12. AS 23.20.305(c) is amended to read:

11           (c) If the commissioner denies a review, he shall notify the  
12           employer of the denial and the reasons for the denial. A redetermina-  
13           tion or a denial of review becomes final, unless within 30 days after  
14           the notice is mailed to the last [KNOWN] address of record of the  
15           employer, or delivered to him, the employer initiates [PETITION FOR]  
16           judicial review [IS FILED] in accordance with sec. 445 of this chapter.

17       \* Sec. 13. AS 23.20.315(c) is amended to read:

18           (c) The department shall mail or deliver a notice of its determi-  
19           nation made under (a) or (b) of this section to the last [KNOWN]  
20           address of record of the employing unit affected. The notice shall  
21           include a statement of the supporting facts found by the department.

22       \* Sec. 14. AS 23.20.315(d) is amended to read:

23           (d) Within 15 days after a notice of a determination has been  
24           mailed or delivered to the last [KNOWN] address of record of an  
25           employing unit, the employing unit may apply to the department to  
26           reconsider its determination in the light of additional evidence and  
27           to issue a redetermination. The department shall, if the request is  
28           granted, mail or deliver to the last [KNOWN] address of record of  
29           the employing unit affected a notice of the redetermination. The

1 notice shall include a statement of the supporting facts found by  
2 the department. If the department denies the request for redetermina-  
3 tion, it shall furnish a notice of the denial of the application.

4 \* Sec. 15. AS 23.20.315(e) is amended to read:

5 (e) Within 15 days after a notice of a determination made  
6 under (a), (b), or (d) of this section or a denial of the applica-  
7 tion under (d) of this section has been mailed or delivered to the  
8 last [KNOWN] address of record of an employing unit, the employing  
9 unit may appeal from the determination to the department. The depart-  
10 ment shall give the parties a reasonable opportunity for a fair  
11 hearing as provided in the case of hearings before appeal tribunals  
12 in secs. 410 - 470 of this chapter. The decision of the department  
13 is final unless, within 30 days after the decision is mailed or  
14 delivered to the last [KNOWN] address of record of a party, the  
15 party initiates judicial review in accordance with sec. 445 of this  
16 chapter.

17 \* Sec. 16. AS 23.20.340(a) is amended to read:

18 (a) An examiner designated by the department shall take the  
19 claim. The examiner shall take all evidence pertaining to the monetary  
20 eligibility of the claimant and [AN INITIAL DETERMINATION ON THE CLAIM  
21 SHALL BE MADE PROMPTLY AND SHALL INCLUDE A DETERMINATION WITH RESPECT  
22 TO WHETHER BENEFITS ARE PAYABLE, THE WEEKLY BENEFIT AMOUNT PAYABLE,  
23 AND THE MAXIMUM DURATION OF BENEFITS. WHEN THE PAYMENT OR DENIAL OF  
24 BENEFITS IS DETERMINED BY SEC. 380(9) OF THIS CHAPTER, THE EXAMINER]  
25 shall promptly transmit all evidence [WITH RESPECT TO THAT SECTION] to  
26 the department. The department, or a representative designated by it  
27 for the purpose, shall, on the basis of the evidence submitted and any  
28 [THE] additional evidence it requires, make an initial monetary deter-  
29 mination of [AS TO] the claim as to whether the claimant is eligible

1 for benefits under sec. 350 of this chapter and the weekly benefit  
2 amount and maximum potential benefit amount.

3 \* Sec. 17. AS 23.20.340(b) is amended to read:

4 (b) Within one year from the date of the initial monetary deter-  
5 mination, the department, on its own motion, may reconsider the monetary  
6 determination if it finds an error in computation or identity or finds  
7 that additional wages pertinent to the claimant's insured status have  
8 become available, or that the initial monetary determination is a  
9 result of a nondisclosure or misrepresentation of a material fact.

10 \* Sec. 18. AS 23.20.340(c) is amended to read:

11 (c) The claimant [AND OTHER PARTIES TO THE DETERMINATION] shall  
12 be promptly notified of the initial monetary determination or a sub-  
13 sequent monetary redetermination [(OR OF AN AMENDED INITIAL DETERMINA-  
14 TION)] and the reasons for it.

15 \* Sec. 19. AS 23.20.340(d) is amended to read:

16 (d) Unless the claimant is determined to be disqualified for  
17 benefits under secs. 375, 380 and 381 of this chapter, benefits [BENE-  
18 FITS] shall be promptly paid [OR DENIED] in accordance with the initial  
19 monetary determination or subsequent redetermination.

20 \* Sec. 20. AS 23.20.340(e) is repealed and re-enacted to read:

21 (e) The claimant may file a request for redetermination of the  
22 initial monetary determination within 15 days after personal notifica-  
23 tion of the determination, or after the date the notice is mailed to  
24 his last address of record. The claimant may file an appeal from a  
25 monetary redetermination within 15 days after personal notification of  
26 the redetermination or after the date the redetermination is mailed to  
27 his last address of record. The period for filing an appeal may be  
28 extended for a reasonable period of time upon a showing that the  
29 application was delayed as a result of circumstances beyond the claim-

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ant's control.

\* Sec. 21. AS 23.20.340(f) is repealed and re-enacted to read:

(f) If a determination of disqualification under secs. 375, 380 and 381 of this chapter is made, the claimant shall be promptly notified of the determination and the reasons for it. The claimant may appeal the determination in the same manner prescribed in this chapter for appeals of monetary redeterminations. Benefits may not be paid for any weeks with respect to which the determination of disqualification was made while a determination is being appealed. However, if a decision on the appeal allows benefits to the claimant, those benefits must be paid promptly.

\* Sec. 22. AS 23.20.408(g) is repealed and re-enacted to read:

(g) There is a state "off" indicator for a week if, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment was either (1) less than four per cent; or (2) less than five per cent and was less than 120 per cent of the average of the rates of insured unemployment for the corresponding 13-week period in each of the preceding two calendar years.

\* Sec. 23. AS 23.20.430 is amended to read:

Sec. 23.20.430. NOTICE OF DECISION AND TIME FOR APPEAL. After a hearing an appeal tribunal shall promptly make findings and conclusions and on the basis of them shall affirm, modify, or reverse the determination. Each party shall be promptly given a copy of the decision, the supporting findings and the conclusions. This decision is final unless further review is initiated under sec. 435 of this chapter within 15 [10] days after the decision is mailed to each party at his last [KNOWN] address of record or delivered to him. The period within which further review may be initiated may be extended for a reasonable period of time upon a showing that the application was

1 delayed as a result of circumstances beyond the party's control [GOOD  
2 CAUSE].

3 \* Sec. 24. AS 23.20.445 is amended to read:

4 Sec. 23.20.445. NOTICE OF DECISION OF DEPARTMENT AND JUDICIAL  
5 REVIEW. Each party, including the properly designated representative  
6 of the department, shall be promptly given a copy of the decision and  
7 the supporting findings and conclusions of the department. The  
8 decision is final unless a party initiates judicial review by filing  
9 an appeal [ACTION] in the superior court as provided in the applicable  
10 Rules of Appellate Procedure of the State of Alaska [FOR REVIEW WITHIN  
11 30 DAYS AFTER THE DEPARTMENT'S DECISION HAS BEEN MAILED TO EACH PARTY  
12 AT HIS LAST KNOWN ADDRESS, OR DELIVERED TO HIM]. For the purpose of  
13 judicial review, an appeal tribunal's decision from which an application  
14 for appeal has been denied by the department is considered the decision  
15 of the department, except that the time for initiating judicial review  
16 runs from the date of the mailing or delivery of the notice of the  
17 denial of the application for appeal by the department.

18 \* Sec. 25. AS 23.20.520(21) is amended to read:

19 (21) "waiting week" means the first week of unemployment  
20 for which an individual files a claim during his benefit year and for  
21 which no disqualification is imposed under secs. 375, 380 and 381 of  
22 this chapter [OCCURRING IN A BENEFIT YEAR];

23 \* Sec. 26. AS 23.20.525(a)(5) is amended to read:

24 (5) service performed before January 1, 1978 in the employ  
25 of a political subdivision of this state or a wholly owned instrumental-  
26 ity of a political subdivision of this state, if coverage was elected  
27 under sec. 325 [OR SEC. 326] of this chapter or if coverage was elected  
28 under sec. 326 of this chapter as it read prior to January 1, 1978;

29 \* Sec. 27. AS 23.20.525(a)(16)(C)(ii) is amended to read:

1 (ii) if that individual is not an employee of  
2 that other person within the meaning of paragraph (10) [(A)]  
3 of this subsection [PARAGRAPH];

4 \* Sec. 28. Chapter 122, sec. 27(a), SLA 1977 is amended to read:

5 (a) Notwithstanding the provisions of AS 23.20.350, benefits may  
6 be paid to an individual after December 31, 1977 on wages earned by  
7 that individual in a category of employment which was not covered  
8 under AS 23.20 at any time during calendar year 1975 and which was  
9 service which is covered under AS 23.20, effective January 1, 1978, as  
10 the result of enactment of sec. 18 [19] of this Act.

11 \* Sec. 29. AS 23.20.340(g) and 23.20.526(a)(19) are repealed.

12 \* Sec. 30. Sections 1, 7, 8, 10 - 21, 23 - 25 and 29 of this Act take  
13 effect on July 1, 1979.

14 \* Sec. 31. Sections 2 and 4 - 6 of this Act take effect immediately  
15 in accordance with AS 01.10.070(c).

16 \* Sec. 32. Sections 3, 9, 26, 27 and 28 of this Act take effect  
17 immediately in accordance with AS 01.10.070(c) and are retroactive to  
18 January 1, 1978.

19 \* Sec. 33. Section 22 of this Act takes effect immediately in accord-  
20 ance with AS 01.10.070(c) and is retroactive to March 3, 1977.

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