

Original sponsor: Rules/Governor

Offered: 5/7/81
Referred: Finance

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 94 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workers' compensation; and provid-
7 ing for an effective date."

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

9 * Section 1. AS 23.30.005(a) is amended to read:

10 (a) The Alaska Workers' Compensation Board shall consist of nine
11 [SEVEN] members, including a southern panel of three members sitting
12 for the first judicial district, a northern panel of three members
13 sitting for the second and fourth judicial districts, [AND] a south-
14 central panel of three members sitting for the third judicial district,
15 and one panel of three members which may sit in any judicial district.

16 Each panel shall include the commissioner of labor or his designated
17 representative, a representative of industry and a representative of
18 labor. The latter two members of each panel shall be appointed by the
19 governor. All panel members are subject to confirmation by a majority
20 of the members of the legislature in joint session.

21 * Sec. 2. AS 23.30.040 is repealed and reenacted to read:

22 Sec. 23.30.040. SECOND INJURY FUND. (a) There is created a
23 second injury fund, administered by the commissioner of labor. Money
24 in the second injury fund may only be paid for the benefit of those
25 persons entitled to payment of benefits from the second injury fund
26 under this chapter. Payments from the second injury fund must be made
27 by the commissioner of labor in accordance with the orders and awards
28 of the board.

29 (b) If an employee suffers a compensable injury which results in

1 temporary total disability, temporary partial disability, permanent
 2 partial disability, or permanent total disability, the employer or
 3 insurance carrier shall contribute to the second injury fund. The
 4 contribution shall be made by one year from the date of the injury or
 5 on termination of the employee's claim, whichever is sooner. If the
 6 claim is not terminated within one year, subsequent contributions shall
 7 be made yearly until the termination of the employee's claim. The
 8 amount of the contribution is the product of the compensation to which
 9 the employee is entitled for temporary total disability, temporary
 10 partial disability, permanent partial disability, permanent total
 11 disability, or for rehabilitation under AS 23.30.191 and the applicable
 12 contribution rate set out in column A of this subsection. By
 13 December 15 of each year the commissioner shall determine and make
 14 available to the public the applicable contribution rate for the follow-
 15 ing calendar year according to the reserve rate of the second injury
 16 fund in Column B of this subsection:

| Column A | | Column B | |
|--------------------|--|--------------|---------------|
| Second Injury Fund | | Reserve Rate | |
| Contribution Rate | | At Least | But Less Than |
| (Percent) | | (Percent) | (Percent) |
| 6 | | 0 | 50 |
| 5 | | 50 | 75 |
| 4 | | 75 | 100 |
| 3 | | 100 | 125 |
| 2 | | 125 | 150 |
| 1 | | 150 | 175 |
| 0 | | 175 | - |

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29 (c) If an employee suffers a compensable injury which results in death and the employee is not survived by a widow, widower, child, or

1 dependent relative eligible to receive death benefits under AS 23.-
2 30.215, the employer or insurance carrier shall pay \$10,000 to the
3 second injury fund.

4 (d) The board may refund a payment made into the second injury
5 fund if the employer or insurance carrier shows that it made the pay-
6 ment by mistake or inadvertence, or if it shows there existed at the
7 time of the death of the employee a beneficiary entitled to benefits
8 under AS 23.30.215.

9 (e) The board may direct and provide the vocational retraining
10 and vocational rehabilitation of a permanently disabled person whose
11 condition is a result of an injury compensable under this chapter by
12 making cooperative arrangements with insurance carriers, private organ-
13 izations and institutions, or state or federal agencies. The person
14 being retrained or rehabilitated is entitled to receive additional
15 compensation from the second injury fund for maintenance during the
16 period of retraining and rehabilitation in the sum which the board
17 considers necessary, not to exceed \$200 a month. The total expendi-
18 tures for maintenance, retraining, rehabilitation, and necessary trans-
19 portation may not exceed \$10,000 for one person.

20 (f) All amounts collected as civil penalties under AS 23.30.-
21 155(c) shall be paid into the second injury fund.

22 (g) The attorney general may investigate claims and hire expert
23 witnesses necessary to prevent fraudulent or excessive claims for money
24 in the second injury fund.

25 (h) Administration expenses of the state under this section and
26 AS 23.30.205 shall be paid from the general fund.

27 * Sec. 3. AS 23.30.155 is amended to read:

28 Sec. 23.30.155. PAYMENT OF COMPENSATION. (a) Compensation
29 under this chapter shall be paid periodically, promptly, and directly

1 to the person entitled to it, without an award, except where liability
2 to pay compensation is controverted by the employer. To controvert a
3 claim the employer must file a notice, on a form prescribed by the
4 board, stating

5 (1) that the right of the employee to compensation is
6 controverted;
7 (2) the name of the employee;
8 (3) the name of the employer;
9 (4) the date of the alleged injury or death; and (5) the type
10 of compensation and all grounds upon which the right to compensation
11 is controverted.

12 (b) The first installment of compensation becomes due on the 14th
13 day after the employer has knowledge of the injury or death. On this
14 date all compensation then due shall be paid. Subsequent compensation
15 shall be paid in installments, every 14 days [SEMIMONTHLY], except
16 where the board determines that payment in installments should be made
17 monthly or at some other period.

18 (c) Upon making the first payment, and upon an increase, reduc-
19 tion, termination, suspension, resumption or a change in rate or type
20 of compensation paid [OF PAYMENT FOR ANY CAUSE], the employer shall
21 [IMMEDIATELY] notify the board within 14 days, on [IN ACCORDANCE WITH]
22 a form prescribed by the board, that payment of compensation has begun
23 or has been increased, reduced, terminated, resumed, changed, or sus-
24 pending, as the case may be. If the employer fails to notify the board
25 within 14 days, the board shall assess against the employer a civil
26 penalty of \$100 plus \$25 for each day in excess of 14 days that the
27 employer fails to give notice. Total penalties under this section may
28 not exceed \$2,500 for each failure to file a required report.

29 (d) If the employer controverts the right to compensation he

1 shall file with the board on or before the 14th day after he has knowl-
2 edge of the alleged injury or death or on or before an installment of
3 compensation payable without an award is due, a notice of controversion
4 on [, IN ACCORDANCE WITH] a form prescribed by the board [, STATING
5 THAT THE RIGHT TO COMPENSATION IS CONTROVERTED, THE NAME OF THE CLAI-
6 MANT, THE NAME OF THE EMPLOYER, THE DATE OF THE ALLEGED INJURY OR
7 DEATH, AND THE GROUNDS UPON WHICH THE RIGHT TO COMPENSATION IS CONTRO-
8 VERTED].

9 (e) If any installment of compensation payable without an award
10 is not paid within 14 days after it becomes due, as provided in (b) of
11 this section, there shall be added to the unpaid installment an amount
12 equal to 20 percent of it, which shall be paid at the same time as, and
13 in addition to, the installment, unless notice is filed under (d) of
14 this section or unless the nonpayment is excused by the board after a
15 showing by the employer that owing to conditions over which he had no
16 control the installment could not be paid within the period prescribed
17 for the payment.

18 (f) If compensation payable under the terms of an award is not
19 paid within 14 days after it becomes due, there shall be added to that
20 [SUCH] unpaid compensation an amount equal to 20 percent of it, which
21 shall be paid at the same time as, but in addition to, the compen-
22 sation, unless review of the compensation order making the award is had
23 as provided in AS 23.30.125 and an interlocutory injunction staying
24 payments is allowed by the court.

25 [(g) WITHIN 16 DAYS AFTER FINAL PAYMENT OF COMPENSATION HAS BEEN
26 MADE, THE EMPLOYER SHALL SEND TO THE BOARD A NOTICE IN ACCORDANCE WITH
27 A FORM PRESCRIBED BY THE BOARD STATING THE FACT THAT FINAL PAYMENT HAS
28 BEEN MADE, THE TOTAL AMOUNT OF COMPENSATION PAID, THE NAME OF THE
29 EMPLOYEE AND OF ANY OTHER PERSON TO WHOM COMPENSATION HAS BEEN PAID,

1 THE DATE OF THE INJURY OR DEATH, AND THE DATE TO WHICH WHICH COMPENSA-
2 TION HAS BEEN PAID. IF THE EMPLOYER FAILS TO SO NOTIFY THE BOARD WITHIN
3 THIS TIME, THE BOARD SHALL ASSESS AGAINST THE EMPLOYER A CIVIL PENALTY
4 IN THE AMOUNT OF \$100.]

5 (h) The board may upon its own initiative at any time in a case
6 in which payments are being made with or without an award, [AND SHALL
7 IN A CASE] where right to compensation is controverted, or where pay-
8 ments of compensation have been increased, reduced, terminated, changed,
9 [STOPPED] or suspended, upon receipt of notice from a person entitled
10 to compensation, or from the employer, that the right to compensation
11 is controverted, or that payments of compensation have been increased,
12 reduced, terminated, changed, [STOPPED] or suspended, make the investi-
13 gations, cause the medical examinations to be made, or hold the hear-
14 ings, and take the further action which it considers will properly
15 protect the rights of all parties.

16 (i) When the board considers it advisable it may require an
17 employer to make a deposit with the Department of Revenue to secure the
18 prompt and convenient payment of the compensation, and payments from
19 the deposit upon an award shall be made upon order of the board.

20 (j) If an employer has made advance payments of compensation, he
21 is entitled to be reimbursed out of any unpaid installment or install-
22 ments of compensation due.

23 (k) An injured employee or in case of death his dependents or
24 personal representative, shall give receipts for payment of compensation
25 to the employer paying it and the employer shall produce them for
26 inspection by the board, whenever required.

27 (l) (repealed)

28 (m) An employer shall file on or before the date one year from
29 the date of injury or upon termination of the claim, whichever is

1 sooner, a report on a form prescribed by the board, showing the total
2 amount of all compensation, medical and related benefits, legal fees,
3 and penalties paid during the period since the injury including the
4 name of the claimant, the date of injury, and the claim number. If the
5 claim is not terminated within one year, subsequent reports shall be
6 made yearly until the termination of the claim.

7 * Sec. 4. AS 23.30.265 is amended by adding a new paragraph to read:

8 (28) "reserve rate" means the unencumbered second injury fund
9 balance on October 31 of each year as a percentage of disbursements
10 from the second injury fund during the 12-month period ending on June 30
11 of the same calendar year.

12 * Sec. 5. AS 23.30.155(g), is repealed.

13 * Sec. 6. The amount of a payment to the second injury fund and the
14 conditions under which a payment is required of an employer or insurance
15 carrier must be in accordance with the version of AS 23.30.040(b) in effect
16 on the date that the injury to the employee occurred.

17 * Sec. 7. Notwithstanding the provisions of AS 23.30.040(b) as reenacted
18 in sec. 2 of this Act, the contribution rate for the second injury fund is
19 six percent from July 1, 1981, until December 31, 1982.

20 * Sec. 8. This Act takes effect on July 1, 1981.
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