

Original sponsor: Rules/Governor

Offered: 5/14/81  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 94 (Finance)

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 AS 23.30.040 is repealed and reenacted to read: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	-

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

10 (5) the type of compensation and all grounds upon which the  
11 right to compensation 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 suspended, 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. The division of workers' compensation in the Department of  
21 Labor shall undertake a comprehensive study of vocational rehabilitation of  
22 injured workers to include the following topics: (1) the organizational  
23 planning for a central agency to supervise and control the sequence, timeli-  
24 ness, duration and quality of rehabilitative care; (2) the coordination of  
25 programs for the distribution of services with other involved agencies; (3)  
26 the determination of the relationship of the obligations of employers and  
27 employees in the rehabilitative process as well as the accountability for  
28 the performance of rehabilitation facilities; (4) the development of methods  
29 to minimize the adversary environment and create an atmosphere conducive to

1 successful reemployment; (5) the development of reemployment programs for  
2 disabled workers; (6) the integration of workers' compensation with other  
3 programs for the disabled; and (7) a review of incentives and disincentives  
4 for employees, employers, and insurers involved in the rehabilitative process.  
5 The division of workers' compensation shall report its recommendations for  
6 legislation or administrative action by the 30th day of the Second Session  
7 of the Twelfth Legislature.

8 \* Sec. 9. This Act takes effect on July 1, 1981.  
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