

Introduced: 2/17/86
Referred: Labor & Commerce
Judiciary and Finance

1 IN THE HOUSE

BY KOPONEN

2

HOUSE BILL NO. 657

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

9 * Section 1. AS 23.05 is amended by adding a new section to read:

10 Sec. 23.05.065. WORKERS' COMPENSATION DUTIES. The department
11 shall administer the state workers' compensation insurance fund and
12 may represent employers insured by the fund in proceedings before the
13 Alaska Workers' Compensation Board.

14 * Sec. 2. AS 23.30.005 is amended by adding a new subsection to read:

15 (m) The department may adopt regulations to implement AS 23.30.-
16 022.

17 * Sec. 3. AS 23.30 is amended by adding new sections to read:

18 Sec. 23.30.022. STATE WORKERS' COMPENSATION INSURANCE FUND. (a)
19 There is established in the general fund the state workers' compensa-
20 tion insurance fund. The fund consists of money paid into the fund
21 under AS 23.30.024 and 23.30.027. Money may be appropriated by the
22 legislature from the state workers' compensation insurance fund for
23 disbursement by the commissioner of administration in accordance with
24 the orders and awards of the board.

25 (b) The board shall classify occupations and industries as to
26 their degree of hazard, determine the risks of different classifica-
27 tions, and fix the rate of premium for each classification in order to
28 provide for

29 (1) payment of administrative expenses;

- 1 (2) payment of compensation under this chapter;
2 (3) maintenance in the fund of adequate reserves and sur-
3 plus to keep the fund solvent at all times.

4 Sec. 23.30.024. EMPLOYER CONTRIBUTIONS. (a) An employer sub-
5 ject to the provisions of this chapter shall pay into the fund annual-
6 ly, the amount or premiums determined and fixed by the board for the
7 industry or occupation of the employer.

8 (b) An employer shall furnish the board with information neces-
9 sary to carry out this section.

10 * Sec. 4. AS 23.30.025 is repealed and reenacted to read:

11 Sec. 23.30.025. SELF-INSURERS. (a) An employer may self-insure
12 against amounts that may be claimed or awarded under this chapter if
13 the board approves the employer as a self-insurer. The board may not
14 approve self-insurance unless the employer has demonstrated to the
15 board the financial ability to pay all the benefits an employee is
16 entitled to receive under this chapter. The board may require the
17 deposit of an acceptable security, indemnity, or bond to secure the
18 payment of compensation.

19 (b) A self-insured employer shall provide claims facilities
20 through its own staffed adjusting facilities located within the state,
21 or by independent adjusters with power to effect settlements in the
22 state.

23 (c) An employer shall furnish the board with information neces-
24 sary to carry out this section.

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

26 Sec. 23.30.027. STATE WORKERS' COMPENSATION INSURANCE FUND
27 PREMIUMS. (a) The board shall establish a system for the experience
28 rating of risks of employers contributing to the fund, and may provide
29 for payment of the premium by installments.

1 (b) If an employer defaults in payment of a premium, the employ-
2 er is subject to a penalty of \$100 plus two percent of the amount in
3 default. Beginning one month after default, the employer is subject
4 to an additional penalty of two percent of the amount in default for
5 each month or fraction of a month the obligation remains unpaid.

6 (c) Default in payment of a premium may not cause a denial of
7 benefits due an employee under this chapter.

8 * Sec. 6. AS 23.30.030 is repealed and reenacted to read:

9 Sec. 23.30.030. REQUIRED BENEFITS. An employee who suffers a
10 compensable injury shall receive the following benefits from a self-
11 insured employer or the state workers' compensation insurance fund:
12 payments of all physician's fees, nurse's charges, hospital services,
13 hospital supplies, medicines, prosthetic devices, transportation
14 charges to the nearest point where adequate medical facilities are
15 available, burial expenses, and compensation or death benefits imposed
16 under this chapter.

17 * Sec. 7. AS 23.30.045(a) is amended to read:

18 (a) An employer is liable for and shall secure the payment to
19 employees of the compensation payable under AS 23.30.030, 23.30.041,
20 23.30.050, 23.30.095, 23.30.145, and 23.30.180 - 23.30.215 by parti-
21 cipation in the state workers' compensation insurance fund or by
22 qualifying as a self-insurer under AS 23.30.025. If the employer is a
23 subcontractor, the contractor is liable for and shall provide for
24 [SECURE THE] payment of the compensation to employees of the subcon-
25 tractor unless the subcontractor is self-insured or is participating
26 in the state workers' compensation insurance fund under AS 23.30.022
27 [SECURES THE PAYMENT].

28 * Sec. 8. AS 23.30.045(d) is amended to read:

29 (d) A contract may not be awarded by the state or a home rule or

1 other political subdivision of the state unless the person to whom the
2 contract is to be awarded has submitted to the contracting agency
3 proof, furnished by the department [INSURANCE CARRIER], of current
4 coverage by the state workers' compensation insurance fund [FROM AN
5 INSURANCE COMPANY OR ASSOCIATION AUTHORIZED TO TRANSACT THE BUSINESS
6 OF WORKERS' COMPENSATION INSURANCE IN THIS STATE] or proof, furnished
7 by the board, of a current certificate of self-insurance from the
8 board. The person to whom the contract is awarded shall keep the
9 workers' compensation coverage [INSURANCE POLICY] in effect during the
10 life of the contract with the state or political subdivision. If the
11 state or the political subdivision of the state fails to obtain proof
12 of coverage or self-insurance or to protect itself under (e) of this
13 section, and an employee of the contractor is injured during the term
14 of the contract, the state or the political subdivision is liable for
15 workers' compensation to the employee if the employee is unable to
16 recover from the employer because of the employer's lack of financial
17 assets. The state or the political subdivision is not liable, how-
18 ever, to the employee for workers' compensation if the employee can
19 recover from the employer under (a) and (b) of this section.

20 * Sec. 9. AS 23.30.060(a) is amended to read:

21 (a) A self-insured [AN] employer is conclusively presumed to
22 have elected to pay compensation directly to employees for injuries
23 sustained arising out of and in the course of the employment according
24 to the provisions of this chapter, until notice in writing of parti-
25 cipation in the state workers' compensation insurance fund [, STATING
26 THE NAME AND ADDRESS OF THE INSURANCE COMPANY AND THE PERIOD OF INSUR-
27 ANCE,] is given to the employee.

28 * Sec. 10. AS 23.30.060(b) is repealed and reenacted to read:

29 (b) Notice of self-insurance or of participation in the state

1 workers' compensation insurance fund shall be posted on the premises
2 where the employer's operations are being carried on in three conspic-
3 uous places, at the office of the employer, at the mess house or
4 boarding house if there is one, and in some conspicuous place on the
5 premises or works.

6 * Sec. 11. AS 23.30.075 is amended to read:

7 Sec. 23.30.075. EMPLOYER'S LIABILITY TO PAY. (a) An employer
8 under this chapter, unless exempted, shall either participate in the
9 state workers' compensation insurance fund [INSURE AND KEEP INSURED
10 FOR THE EMPLOYER'S LIABILITY UNDER THIS CHAPTER IN AN INSURANCE COM-
11 PANY OR ASSOCIATION DULY AUTHORIZED TO TRANSACT THE BUSINESS OF WORK-
12 ERS' COMPENSATION INSURANCE IN THIS STATE,] or shall furnish the board
13 satisfactory proof of the employer's financial ability to pay compen-
14 sation directly as a self-insurer under AS 23.30.025 [THE COMPENSA-
15 TION PROVIDED FOR. IF AN EMPLOYER ELECTS TO PAY DIRECTLY, THE BOARD
16 MAY, IN ITS DISCRETION, REQUIRE THE DEPOSIT OF AN ACCEPTABLE SECURITY,
17 INDEMNITY OR BOND TO SECURE THE PAYMENT OF COMPENSATION LIABILITIES AS
18 THEY ARE INCURRED].

19 (b) An employer who fails to participate in the state workers'
20 compensation insurance fund [INSURE AND KEEP INSURED EMPLOYEES SUBJECT
21 TO THIS CHAPTER] or fails to obtain a certificate of self-insurance
22 from the board, upon conviction, is punishable by a fine of not more
23 than \$1,000, or by imprisonment for not more than one year, or by
24 both. If an employer is a corporation, all persons who, at the time
25 of the injury or death, had authority to insure the [SAID] corporation
26 or apply for a certificate of self-insurance, and the person actively
27 in charge of the business of the [SUCH] corporation shall be subject
28 to the penalties prescribed in this subsection [HEREIN] and shall be
29 personally, jointly, and severally liable together with the

1 corporation for the payment of all compensation or other benefits for
2 which the corporation is liable under this chapter if the [SAID]
3 corporation at the [SUCH] time is not participating in the state
4 workers' compensation insurance fund [INSURED] or qualified as a
5 self-insurer.

6 * Sec. 12. AS 23.30.080(d) is amended to read:

7 (d) If an employer fails to participate in the state workers'
8 compensation insurance fund or self-insure under AS 23.30.025 [INSURE
9 OR PROVIDE SECURITY AS REQUIRED BY AS 23.30.075], the board may issue
10 a stop order prohibiting the use of employee labor by the employer
11 until the employer complies with this chapter [INSURES OR PROVIDES
12 SECURITY AS REQUIRED BY AS 23.30.075. THE FAILURE OF AN EMPLOYER TO
13 FILE EVIDENCE OF COMPLIANCE AS REQUIRED BY AS 23.30.085 CREATES A
14 REBUTTABLE PRESUMPTION THAT THE EMPLOYER HAS FAILED TO INSURE OR
15 PROVIDE SECURITY AS REQUIRED BY AS 23.30.075]. If an employer fails
16 to comply with a stop order issued under this section, the board shall
17 assess a civil penalty of \$1,000 per day. The employer may not obtain
18 a public contract with the state or a political subdivision of the
19 state for three years following the violation of the stop order.

20 * Sec. 13. AS 23.30.092 is amended to read:

21 Sec. 23.30.092. VOLUNTEER AMBULANCE ATTENDANTS, POLICEMEN AND
22 FIREMEN INSURANCE. A political subdivision may elect to provide
23 benefits and compensation to its volunteer ambulance attendants,
24 policemen or firemen under the state workers' compensation [BY OBTAIN-
25 ING] insurance fund [WHICH WOULD PROVIDE ITS VOLUNTEER AMBULANCE
26 ATTENDANTS, POLICEMEN OR FIREMEN WITH BENEFITS AND COMPENSATION AT
27 LEAST EQUIVALENT TO THOSE CONFERRED UPON VOLUNTEER AMBULANCE ATTEN-
28 DANTS, POLICEMEN OR FIREMEN BY THIS CHAPTER, AND THE ELECTION SHALL BE
29 CONSIDERED COMPLIANCE WITH THE COVERAGE AND INSURANCE PROVISIONS OF

1 THIS CHAPTER]. The election shall be made by filing written notifica-
2 tion on a form prescribed by [FILING COPIES OF THE INSURANCE POLICY OR
3 POLICIES WITH] the commissioner.

4 * Sec. 14 AS 23.30.095(a) is amended to read:

5 (a) The employer, if self-insured, or the state workers' compen-
6 sation insurance fund shall furnish medical, surgical, and other
7 attendance or treatment, nurse and hospital service, medicine,
8 crutches, and apparatus for the period that [WHICH] the nature of the
9 injury or the process of recovery requires, not exceeding two years
10 from and after the date of injury to the employee. However, if the
11 condition requiring the treatment, apparatus, or medicine is a latent
12 one, the two-year period runs from the time the employee has knowledge
13 of the nature of the employee's disability and its relationship to the
14 employment and after disablement. It shall be additionally provided
15 that, if continued treatment or care or both beyond the two-year
16 period is indicated, the injured employee has the right of review by
17 the board. The board may authorize continued treatment or care or
18 both as the process of recovery may require. When medical care is
19 required, the injured employee may designate a licensed physician
20 inside the state to render the care except in cases where, in the
21 judgment of the board, care or treatment or both can best be adminis-
22 tered by the selection of another physician. Upon procuring the ser-
23 vices of a physician, the injured employee shall give proper notifica-
24 tion of the selection to the employer within a reasonable time after
25 first being treated. If for any reason during the period when medical
26 care is required the employee wishes to change to another physician,
27 the employee may do so in accordance with regulations adopted by the
28 board.

29 * Sec. 15 AS 23.30.095(c) is amended to read:

1 (c) A claim for medical or surgical treatment is not valid and
2 enforceable against the employer or the state workers' compensation
3 insurance fund unless, within 14 days following treatment, the physi-
4 cian giving the treatment or the employee receiving it furnishes to
5 the employer and the board notice of the injury and treatment, pref-
6 erably on a form prescribed by the board. The board shall, however,
7 excuse the failure to furnish notice within 14 days when it finds it
8 to be in the interest of justice to do so, and it may, upon applica-
9 tion by a party in interest, make an award for the reasonable value of
10 the medical or surgical treatment so obtained by the employee.

11 * Sec. 16 AS 23.30.155(a) is amended to read:

12 (a) Compensation under this chapter shall be paid periodically,
13 promptly, and directly to the person entitled to it, without an award,
14 except where liability to pay compensation is controverted by the
15 employer or the department. To controvert a claim the employer or the
16 department must file a notice, on a form prescribed by the board,
17 stating

- 18 (1) that the right of the employee to compensation is
19 controverted;
- 20 (2) the name of the employee;
- 21 (3) the name of the employer;
- 22 (4) the date of the alleged injury or death; and
- 23 (5) the type of compensation and all grounds upon which the
24 right to compensation is controverted.

25 * Sec. 17 AS 23.30.155(b) is amended to read:

26 (b) The first installment of compensation becomes due on the
27 14th day after the employer or the department has knowledge of the
28 injury or death. On this date all compensation then due shall be paid.
29 Subsequent compensation shall be paid in installments, every 14 days,

1 except where the board determines that payment in installments should
2 be made monthly or at some other period.

3 * Sec. 18 AS 23.30.155(c) is amended to read:

4 (c) The employer or the department shall notify the board and
5 the employee on a form prescribed by the board that the payment of
6 compensation has begun or has been increased, decreased, suspended,
7 terminated, resumed, or changed in type. An initial report shall be
8 filed with the board and sent to the employee within 28 days after the
9 date of issuing the first payment of compensation. If at any time 21
10 days or more pass and no compensation payment is issued, a report
11 notifying the board and the employee of the termination or suspension
12 of compensation shall be filed with the board and sent to the employee
13 within 28 days after the date the last compensation payment was is-
14 sued. A report shall also be filed with the board and sent to the
15 employee within 28 days after the date of issuing a payment increas-
16 ing, decreasing, resuming or changing the type of compensation paid.
17 If a self-insured [THE] employer fails to notify the board and the
18 employee within the 28 days prescribed by this subsection for report-
19 ing, the employer shall pay a civil penalty of \$100 for the first day
20 plus \$10 for each day thereafter that the employer failed to give
21 notice. Total penalties under this section may not exceed \$1,000 for
22 a failure to file a required report.

23 * Sec. 19. AS 23.30.155(d) is amended to read:

24 (d) If the employer or the department controverts the right to
25 compensation the employer or the department shall file with the board
26 and send to the employee a notice of controversion on or before the
27 21st day after the employer has knowledge of the alleged injury or
28 death. If the employer or the department controverts the right to
29 compensation after payments have begun, the employer or the department

1 shall file with the board and send to the employee a notice of contro-
2 version within seven days after an installment of compensation payable
3 without an award is due.

4 * Sec. 20. AS 23.30.155(e) is amended to read:

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

15 * Sec. 21. AS 23.30.155(h) is amended to read:

16 (h) The board may upon its own initiative at any time in a case
17 in which payments are being made with or without an award, where right
18 to compensation is controverted, or where payments of compensation
19 have been increased, reduced, terminated, changed, or suspended, upon
20 receipt of notice from a person entitled to compensation, or from the
21 employer or the department, that the right to compensation is contro-
22 verted, or that payments of compensation have been increased, reduced,
23 terminated, changed, or suspended, make the investigations, cause the
24 medical examinations to be made, or hold the hearings, and take the
25 further action which it considers will properly protect the rights of
26 all parties.

27 * Sec. 22. AS 23.30.155(i) is amended to read:

28 (i) When the board considers it advisable it may require a
29 self-insured [AN] employer to make a deposit with the Department of

1 Revenue to secure the prompt and convenient payment of the compensa-
2 tion, and payments from the deposit upon an award shall be made upon
3 order of the board.

4 * Sec. 23. AS 23.30.155(j) is amended to read:

5 (j) If an employer or the department has made advance payments
6 or overpayments of compensation, the employer or the department is
7 entitled to be reimbursed by withholding up to 20 percent out of each
8 unpaid installment or installments of compensation due. More than 20
9 percent of unpaid installments of compensation due may be withheld
10 from an employee only on approval of the board.

11 * Sec. 24. AS 23.30.155(m) is amended to read:

12 (m) A self-insured [AN] employer shall file on or before the
13 date one year from the date of injury or upon termination of the
14 claim, whichever is sooner, a report on a form prescribed by the
15 board, showing the total amount of all compensation, medical and
16 related benefits, legal fees, and penalties paid during the period
17 since the injury including the name of the claimant, the date of
18 injury, and the claim number. If the claim is not terminated within
19 one year, subsequent reports shall be made yearly until the termina-
20 tion of the claim.

21 * Sec. 25. AS 23.30.170(a) is amended to read:

22 (a) In case of default by a self-insured [THE] employer in the
23 payment of compensation due under an award of compensation for a
24 period of 30 days after the compensation is due, the person to whom
25 the compensation is payable may, within one year after the default,
26 apply to the board making the compensation order for a supplementary
27 order declaring the amount of the default. After investigation,
28 notice, and hearing, as provided in AS 23.30.110, the board shall make
29 a supplementary order declaring the amount of the default. The order

- 1 shall be filed in the same manner as the compensation order.
- 2 * Sec. 26. APPLICABILITY. This Act applies to compensable injuries
- 3 that occur after the effective date of this Act.
- 4 * Sec. 27. AS 23.30.085 is repealed.
- 5 * Sec. 28. This Act takes effect January 1, 1987.