

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

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

HOUSE BILL NO. 681

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 unemployment insurance; and
7 providing for an effective date."

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

9 * Section 1. AS 16.10.290(a) is amended to read:

10 (a) A fish processor or primary fish buyer shall file with the
11 commissioner of labor a surety bond running to the State of Alaska
12 conditioned upon the promise to pay (1) all persons furnishing labor
13 to a fish processor or primary fish buyer, including contractual
14 employee benefits; [AND] (2) independent registered commercial fisher-
15 men for the price of the raw fishery resource purchased from them; and
16 (3) unemployment insurance contributions. The surety or sureties must
17 [SHALL] be satisfactory, in the determination of the commissioner.

18 * Sec. 2. AS 23.20.130(d) is amended to read:

19 (d) The training and building fund consists of all interest and
20 penalties collected under AS 23.20.185, 23.20.190, [AND] 23.20.195,
21 and 23.20.390, and all sums recovered on official bond for losses
22 sustained by the fund. Training and building fund money must [SHALL]
23 be deposited in the clearing account of the unemployment compensation
24 fund for clearance only, and does not become a part of the fund. The
25 unobligated amount in the training and building fund in excess of
26 \$100,000 on the close of business of the 30th day following the last
27 day of each fiscal year must [SHALL] be transferred within 20 days to
28 this state's account in the unemployment trust fund. The fund must
29 [SHALL] be included in the budget submitted to the legislature under

1 the Executive Budget Act (AS 37.07). Funds available in the training
2 and building fund must [SHALL] be expended upon the direction of the
3 department, with the approval of the governor, when it appears to the
4 governor that the expenditure is necessary for but not limited to

5 (1) the proper administration of this chapter if no federal
6 funds are available for the specific purpose for which the expenditure
7 is to be made, and if the funds are not substituted for appropriations
8 from federal funds that would be made available in the absence of
9 those funds;

10 (2) the proper administration of this chapter, if appro-
11 priations from federal funds have been requested but not yet received,
12 and the training and building fund will be reimbursed upon receipt of
13 the requested federal appropriation;

14 (3) the purposes specified in AS 23.15.611;

15 (4) the purposes specified in AS 23.20.075.

16 * Sec. 3. AS 23.20.195(a) is amended to read:

17 (a) If the contributions are unpaid after 30 days from the date
18 of mailing or personal delivery of a written demand for payment, the
19 department may [SHALL] assess and collect in the same manner as con-
20 tributions a penalty equal to 10 percent of the contributions due. In
21 no event may the penalty be less than \$10 [\$1].

22 * Sec. 4. AS 23.20.277(b) is amended to read:

23 (b) At the end of each calendar quarter, or at the end of any
24 other period as determined by the department, the department shall
25 bill each nonprofit organization[,] or group of nonprofit organiza-
26 tions, and government entity, which has elected to make payments in
27 place of contributions for either (1) a portion, as determined in (m)
28 of this section, of the benefits attributable to it, or (2) 100 per-
29 cent of the amount attributable to the organization or entity if the

1 election under (n) of this section is made. A nonprofit organization,
2 or group of nonprofit organizations, must be attributed an amount
3 equal to the full amount of regular benefits plus one-half of the
4 amount of extended benefits paid during the quarter or other pre-
5 scribed period that results from service in the employ of the nonprof-
6 it organization. A [AND IN THE CASE OF A] government entity which has
7 elected to make payments under this section must be attributed an
8 amount equal to the full amount of the regular benefits plus the full
9 amount of the extended benefits paid during the quarter or other
10 prescribed period that results from [IS ATTRIBUTABLE TO] service in
11 the employ of the government entity [NONPROFIT ORGANIZATION].

12 * Sec. 5. AS 23.20.277 is amended by adding new subsections to read:

13 (m) An employer who is liable for payments in place of contribu-
14 tions shall reimburse the department, for the fund, a percentage of
15 the amount of benefits that is attributable to it under (b) of this
16 section. The percentage must be calculated and in effect on January 1
17 of each year, and must be calculated by the following formula:
18 PBC-PYS, in which

19 PBC

20 (1) PBC = projected benefit cost, which is the amount that
21 would have been paid on all weekly claims filed during the 12-month
22 period ending the preceding June 30 by individuals employed by employ-
23 ers who elected to make payments under (b) of this section, if the
24 claims had been paid under the benefit schedule in effect the October
25 1 following that 12-month period; and

26 (2) PYS = prior year surcharge, which is the total amount
27 of surcharge collected under AS 23.20.290(g) during the 12-month
28 period ending the preceding June 30; however, the percentage calculat-
29 ed under this subsection in 1987 and 1988 will be based on estimated

1 collected surcharge.

2 (n) A nonprofit organization or government entity may elect to
3 not collect from individuals in its employ the surcharge described in
4 AS 23.20.290(g) and may instead reimburse the department, for the
5 fund, 100 percent of the amount of benefits attributable to it under
6 (b) of this section. This election must be made in the same manner as
7 an election of payments in place of contributions, as described in
8 AS 23.20.276.

9 * Sec. 6. AS 23.20.290 is amended by adding a new subsection to read:

10 (g) A surcharge is payable by an insured worker to the depart-
11 ment for the unemployment trust fund. An employer shall deduct the
12 surcharge from the individual's wages, and treat it in the manner
13 provided for handling employee contributions in AS 23.20.165(c). The
14 surcharge payable by an insured worker in the employ of an employer
15 who makes contributions under AS 23.20.165 is .6 percent of wages
16 paid. The surcharge payable by an insured worker in the employ of an
17 employer who is subject to AS 23.20.277 or AS 23.20.278 is .2 percent
18 of wages paid, unless the employer elects to fully reimburse the
19 department under AS 23.20.277(n). For purposes of this subsection,
20 "wages" do not include that part of remuneration described in AS 23.-
21 20.175(c)(2).

22 * Sec 7. AS 23.20 is amended by adding a new section to read:

23 Sec. 23.20.351. AMOUNT OF BENEFITS. (a) An individual who is
24 paid at least \$1,000 in wages during the individual's base period for
25 employment covered by this chapter is eligible to receive benefits
26 under this chapter if those wages were paid in at least two of the
27 calendar quarters of the individual's base period.

28 (b) For the purpose of computing the benefits payable under this
29 chapter, the base period wages of an insured worker are determined as

1 follows:

2 (1) if the insured worker is paid 90 percent or more of the
3 worker's wages in the calendar quarter of the worker's base period in
4 which the worker was paid the greatest amount of wages, the base
5 period wages are the wages paid in the quarters of the base period
6 other than the one in which the greatest amount of wages were paid,
7 multiplied by 10; and

8 (2) if the insured worker is paid less than 90 percent of
9 the worker's wages in the calendar quarter of the worker's base period
10 in which the worker was paid the greatest amount of wages, the base
11 period wages are the wages paid to the worker during the base period.

12 (c) Each year the department will compute a schedule of benefits
13 for claims that are effective after September 30 of that year. The
14 schedule will be based on data compiled from claims effective during
15 the preceding calendar year.

16 (d) An individual who is eligible under (a) of this section, and
17 whose claim is effective after September 30, 1986, is entitled to
18 receive a weekly benefit amount as follows:

19 (1) if the individual's base period wage is equal to or
20 greater than the wage of the claimant who is at the 75th percentile of
21 all claimants eligible during the time period used in computing the
22 schedule under (b) of this section, the individual is entitled to the
23 maximum weekly benefit amount; the maximum weekly benefit amount is 48
24 percent of the average weekly wage of the person at the 75th percen-
25 tile of all claimants eligible during the time period used in comput-
26 ing the schedule, rounded to the nearest even-numbered dollar;

27 (2) the weekly benefit amount for an eligible claimant who
28 is not covered by (1) of this subsection is calculated under the
29 following formula:

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(mw-bpw)

wba = mb - 2(250), rounded to the next lower even-numbered dollar, or 10 percent of the state average weekly wage for the time period used in computing the schedule under (b) of this section, rounded to the nearest even-numbered dollar, whichever is greater;

(3) in (2) of this subsection,

(A) wba = weekly benefit amount;

(B) mb = maximum weekly benefit, as provided in (1) of this subsection;

(C) mw = the base period wage of the person at the 75th percentile of all claimants eligible during the time period used in computing the schedule; and

(D) bpw = the claimant's base period wage.

(e) An individual described in (d) of this section is entitled to receive a weekly benefit under this chapter for the number of weeks set out in column (B) of the table in this subsection opposite the applicable earnings ratio of the individual set out in column (A):

(A)	(B)
Earnings Ratio	Number of Weeks
less than 1.49	16
1.50 -- 1.99	18
2.00 -- 2.49	20
2.50 -- 2.99	22
3.00 -- 3.49	24
3.50 or more	26

(f) An individual who establishes a benefit year after September 30, 1986, is eligible for an allowance for dependents in addition to the individual's weekly benefit amount. The department

1 may require an individual claiming or receiving an allowance for
2 dependents to produce income tax returns, birth certificates, notices
3 of adoption or custody, social security account number of spouse,
4 verification of support documents, or other information necessary to
5 verify that the allowance is payable to the individual. The allowance
6 for dependents

7 (1) is \$24 per week for each dependent, except that the
8 total allowance for dependents paid to an individual may not exceed
9 \$72 for each week of unemployment;

10 (2) is payable beginning with the week during the benefit
11 year in which the individual claims an allowance for the dependent and
12 is payable for the remainder of the individual's eligibility for
13 regular, extended, or supplemental payments during the benefit year;
14 and

15 (3) may not be claimed for a new dependent after the end of
16 the benefit year or after the exhaustion of regular benefits in the
17 benefit year.

18 (g) In this section,

19 (1) "dependent" means an individual's

20 (A) unmarried child, stepchild, legally adopted child,
21 or legal ward, under 18 years of age, who is

22 (i) lawfully in the individual's physical custody
23 at the time the individual claims the allowance for depen-
24 dents; or

25 (ii) dependent on the individual for more than 50
26 percent of support;

27 (B) unmarried child, stepchild, legally adopted child,
28 or legal ward of any age who is dependent on the individual for
29 more than 50 percent of support and who is prevented by infirmity

1 from engaging in a gainful occupation;

2 (2) "earnings ratio" means the ratio obtained by dividing
3 the total base period wages of the insured worker by the wages paid in
4 the quarter of the base period in which the worker was paid the great-
5 est amount of wages;

6 (3) "state average weekly wage" means the average annual
7 wage, as defined in AS 23.20.520, divided by 52.

8 * Sec. 8. AS 23.20.390 is amended by adding a new subsection to read:

9 (f) In addition to the liability under (a) of this section for
10 the amount of benefits improperly paid, an individual who is disqual-
11 ified from receipt of benefits under AS 23.20.387 is liable to the
12 department for a penalty in an amount equal to 50 percent of the
13 benefits that were obtained by knowingly making a false statement or
14 misrepresenting a material fact, or knowingly failing to report a
15 material fact, with the intent to obtain or increase benefits under
16 this chapter. The department may, in accordance with regulations
17 adopted under this chapter, waive the collection of a penalty under
18 this section. The department shall transfer the penalty collected to
19 the training and building fund.

20 * Sec. 9. AS 23.20 is amended by adding a new section to read:

21 Sec. 23.20.391. LIEN. (a) A claim for benefits that have been
22 improperly paid as a result of a false statement, misrepresentation,
23 or omission, as described in AS 23.20.390(f), including a penalty, not
24 paid when due is a lien in favor of the state against all the real and
25 personal property of the individual.

26 (b) The claim becomes a lien when the department files a notice
27 of the lien with the recording officer of the recording district in
28 which the property is located. The claim becomes a lien on a motor
29 vehicle when the department files a notice of the lien in the office

1 of the commissioner of public safety. Filing of the notice of lien is
2 constructive notice to creditors of the owner, and to subsequent
3 purchasers and encumbrancers, of the lien against the property de-
4 scribed in the notice.

5 (c) The department may release a notice of lien by filing a
6 certificate of release in the manner prescribed for the filing of a
7 notice of lien. The department may not file a certificate of release
8 until the amount of the claim, including a penalty, if any, is paid,
9 or until it receives assurance of payment which it considers adequate,
10 or until the individual is absolved from liability under AS 23.20.-
11 390(b).

12 * Sec. 10. AS 23.20 is amended by adding a new section to read:

13 Sec. 23.20.393. NOTICE OF ASSESSMENT, DISTRAINT AND SEIZURE.

14 (a) If the department's determination of liability under AS 23.20.-
15 390(f) is final and the individual has not made repayment within 90
16 days, the department may issue a notice of assessment, specifying the
17 amount due, and may serve it on the individual. A peace officer or an
18 authorized representative of the department may serve the notice
19 personally or the department may mail the notice by certified or
20 registered mail with return receipt requested.

21 (b) If the notice is served by mail, the notice must be deposit-
22 ed in the post office, postage paid, and addressed to the individual
23 at the individual's last address of record. The date of service is
24 considered to be the day of delivery shown on the delivery receipt.
25 However, if the department determines that the addressee is deliber-
26 ately avoiding service, then the date of service is the day of mail-
27 ing.

28 (c) If the amount assessed is not paid within 30 days after
29 personal service or mailing of the notice, the department may collect

1 the amount stated in the assessment by the distraint or seizure of the
2 property, assets, goods, and effects of the individual. Goods and
3 property exempt from execution under the laws of this state are exempt
4 from distraint under this section.

5 * Sec. 11. AS 23.20 is amended by adding a new section to read:

6 Sec. 23.20.394. NOTICE AND ORDER TO WITHHOLD AND DELIVER. (a)
7 The department may issue to a person or a political subdivision or
8 department of the state a notice and order to withhold and deliver
9 property of any kind if (1) the department has reason to believe that
10 the person, political subdivision, or department possesses property
11 that is due or owing, or is the property of another person; and (2)
12 notice of assessment has been served at least 30 days before the
13 issuance of the notice and order to withhold and deliver.

14 (b) A peace officer or an authorized representative of the
15 department may serve the notice and order to withhold and deliver.
16 The person, political subdivision, or department upon whom service is
17 made shall answer the notice within 10 days.

18 (c) If the person, political subdivision, or department possess-
19 es property, credits, or money subject to the claim of the department,
20 it shall deliver the property to the department immediately upon
21 demand.

22 (d) If a person fails to answer the notice and order to withhold
23 and deliver within the time prescribed, the superior court in the
24 judicial district in which the order is served may enter a judgment by
25 default against the person for the full amount claimed by the depart-
26 ment in the notice to withhold and deliver, together with costs.

27 * Sec. 12. AS 23.20.520(13) is amended to read:

28 (13) "employer" (A) means (i) [(A)] an employing unit which
29 for some portion of a day within the calendar year has or had in

1 employment one or more individuals; and (ii) [(B)] for the effective
2 period of its election under AS 23.20.325, an employing unit which has
3 elected to become subject to this chapter; and (B) includes an officer
4 or employee of a corporation or a member or employee of a partnership
5 who, as an officer, employee, or member, is under a duty to pay con-
6 tributions, interest, and penalties;

7 * Sec. 13. AS 23.20.520(21) is amended to read:

8 (21) "insured worker" means an individual who, with respect
9 to a base period, meets the wage and employment requirements of
10 AS 23.20.350 or 23.20.351, as applicable;

11 * Sec. 14. AS 23.20.530(a) is amended to read:

12 (a) In this chapter, "wages" means all remuneration for service
13 from whatever source, including, but not limited to, insured work,
14 noninsured work, or self-employment; commissions, bonuses, back pay
15 and the cash value of all remuneration in a medium other than cash
16 shall be treated as wages; gratuities customarily received by an
17 individual in the course of service from persons other than the indi-
18 vidual's employing unit may be treated as wages received from the
19 employing unit only to the extent the individual reports the gratu-
20 ities to the employing unit. The reasonable cash value of remunera-
21 tion in a medium other than cash, and the reasonable amount of gratu-
22 ities, shall be estimated and determined in accordance with regu-
23 lations adopted by the department; notwithstanding AS 23.20.350(a),
24 back pay awards shall be allocated to the weeks or quarters with
25 respect to which the pay was earned. If the remuneration of an indi-
26 vidual is not based upon a fixed period of time or if the individual's
27 wages are paid in irregular intervals or in a manner which does not
28 extend regularly over the period of employment, the wages shall be
29 allocated to weeks or quarters in accordance with regulations adopted

1 by the department. The regulations shall, so far as possible, produce
2 results reasonably similar to those which would prevail if the indi-
3 vidual's wages were paid at regular intervals. Wages earned for
4 services performed, but not paid because the employer has filed for
5 bankruptcy, are considered wages for the quarter in which they were
6 earned.

7 * Sec. 15. AS 23.20.175(a), 23.20.190(e), 23.20.240(f), and 23.20.-
8 277(1) are repealed.

9 * Sec. 16. AS 23.20.350 is repealed.

10 * Sec. 17. Sections 3, 4, 6, 7, 9, 10, 11, 12, 13 and 15 of this Act
11 take effect October 1, 1986.

12 * Sec. 18. Section 5 of this Act takes effect January 1, 1987.

13 * Sec. 19. Section 16 of this Act takes effect October 1, 1988.