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BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 681 (L&C)

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 shall be
23 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 shall be transferred within 20 days to this
28 state's account in the unemployment trust fund. The fund must [SHALL]
29 be included in the budget submitted to the legislature under the

1 Executive Budget Act (AS 37.07). Funds available in the training and
2 building fund shall be expended upon the direction of the department,
3 with the approval of the governor, when it appears to the governor
4 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, that [WHICH] has elected to make pay-
27 ments in place of contributions for either (1) a portion, as deter-
28 mined in (m) of this section, of the benefits attributable to it, or
29 (2) 100 percent of the amount attributable to the organization or

1 entity if the election under (n) of this section is made. A nonprofit
2 organization, or group of nonprofit organizations, must be attributed
3 an amount equal to the full amount of regular benefits plus the state
4 share [ONE-HALF OF THE AMOUNT] of extended benefits paid during the
5 quarter or other prescribed period that results from service in the
6 employ of the nonprofit organization. A [AND IN THE CASE OF A] gov-
7 ernment entity that [WHICH] has elected to make payments under this
8 section must be attributed an amount equal to the full amount of the
9 regular benefits plus the full amount of the extended benefits paid
10 during the quarter or other prescribed period that results from [IS
11 ATTRIBUTABLE TO] service in the employ of the government entity [NON-
12 PROFIT ORGANIZATION].

13 * Sec. 5. AS 23.20.277(e) is amended to read:

14 (e) At the end of each taxable year, the department shall deter-
15 mine whether the total of payments for the year made by a nonprofit
16 organization is less than, or in excess of, the total amount of regu-
17 lar benefits plus the state share [ONE-HALF OF THE AMOUNT] of extended
18 benefits paid to individuals during the taxable year based on wages
19 attributable to service in the employ of the nonprofit organization;
20 and in the case of a government entity that has elected to make pay-
21 ments under this section, whether the total of payments for the year
22 is less than, or in excess of, the total amount of regular benefits
23 plus the total amount of extended benefits as determined in this
24 subsection. Each organization whose total payments for the taxable
25 year are less than the amount so determined is liable for payment of
26 the unpaid balance to the fund in accordance with (f) of this section.
27 If the total payments exceed the amount so determined for the taxable
28 year, all or part of the excess may, at the discretion of the depart-
29 ment, be refunded from the fund or retained in the fund as part of the

1 payments that [WHICH] may be required for the next taxable year.

2 * Sec. 6. AS 23.20.277 is amended by adding new subsections to read:

3 (m) An employer who is liable for payments in place of contribu-
4 tions shall reimburse the department, for the fund, a percentage of
5 the amount of benefits that is attributable to it under (b) of this
6 section. The percentage shall be calculated and in effect on
7 January 1 of each year, and must be calculated by the following form-
8 ula: $(PBC-PYS)/PBC$, in which

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

15 (2) PYS = prior year surcharge, which is the total amount
16 of surcharge collected under AS 23.20.290(g) during the 12-month
17 period ending the preceding June 30.

18 (n) A nonprofit organization or government entity may elect to
19 not collect from individuals in its employ the surcharge described in
20 AS 23.20.290(g) and may instead reimburse the department, for the
21 fund, 100 percent of the amount of benefits attributable to it under
22 (b) of this section. The election shall be made in the same manner as
23 an election of payments in place of contributions under AS 23.20.276.

24 * Sec. 7. AS 23.20.290(e) is amended to read:

25 (e) The department shall determine the average benefit cost rate
26 as follows:

27 (1) the department shall determine the amount of benefits
28 paid to insured workers during the last three computation years;

29 (2) the department shall subtract from the amount

1 determined in (1) of this subsection the amount of any benefits reim-
2 bursed to the fund, [AND] the amount of interest earned on the trust
3 fund balance, and the amount of revenue collected through the employee
4 surcharge in (g) of this section during those computation years;

5 (3) the department shall divide the amount determined in
6 (2) of this subsection by the total wages paid by all employers re-
7 quired to pay contributions under this chapter during the first three
8 of the last four computation years;

9 (4) the department shall determine the amount of total
10 wages subject to contributions under this chapter paid during the
11 preceding computation years;

12 (5) the department shall determine the amount of all wages
13 paid to insured workers during the preceding computation year;

14 (6) the department shall subtract from the amount deter-
15 mined in (5) of this subsection the amount of wages paid during the
16 preceding computation year by employers who elect to reimburse the
17 department under AS 23.20.276 and 23.20.277;

18 (7) the department shall divide the amount determined in
19 (4) of this subsection by the amount determined in (6) of this sub-
20 section; and

21 (8) the department shall divide the amount determined in
22 (3) of this subsection by the amount determined in (7) of this sub-
23 section.

24 * Sec. 8. AS 23.20.290 is amended by adding a new subsection to read:

25 (g) A surcharge is payable by an insured worker to the depart-
26 ment for the unemployment trust fund. An employer shall deduct the
27 surcharge from the individual's wages, and treat it in the manner
28 provided for handling employee contributions in AS 23.20.165(c). The
29 surcharge payable by an insured worker in the employ of an employer

1 who makes contributions under AS 23.20.165 is .6 percent of wages
2 paid. The surcharge payable by an insured worker in the employ of an
3 employer who is subject to AS 23.20.277 or 23.20.278 is .2 percent of
4 wages paid, unless the employer elects to fully reimburse the depart-
5 ment under AS 23.20.277(n). For purposes of this subsection, "wages"
6 do not include that part of remuneration described in AS 23.20.175-
7 (c)(2).

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

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

14 (b) For the purpose of computing the benefits payable under this
15 chapter, the base period wages of an insured worker are determined as
16 follows:

17 (1) if the insured worker is paid 90 percent or more of the
18 worker's wages in the calendar quarter of the worker's base period in
19 which the worker was paid the greatest amount of wages, the base
20 period wages are the wages paid in the quarters of the base period
21 other than the one in which the greatest amount of wages were paid,
22 multiplied by 10; and

23 (2) if the insured worker is paid less than 90 percent of
24 the worker's wages in the calendar quarter of the worker's base period
25 in which the worker was paid the greatest amount of wages, the base
26 period wages are the wages paid to the worker during the base period.

27 (c) Each year the department shall compute a schedule of bene-
28 fits for claims that are effective after September 30 of that year.
29 The schedule shall be based on data compiled from claims effective

1 during the preceding calendar year.

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

5 (1) if the individual's base period wage is equal to or
6 greater than the wage of the claimant who is at the 75th percentile of
7 all claimants eligible during the time period used in computing the
8 schedule under (c) of this section, the individual is entitled to the
9 maximum weekly benefit amount; the maximum weekly benefit amount is 48
10 percent of the average weekly wage of the person at the 75th percen-
11 tile of all claimants eligible during the time period used in comput-
12 ing the schedule, rounded to the nearest even-numbered dollar;

13 (2) the weekly benefit amount for an eligible claimant who
14 is not covered by (1) of this subsection is calculated under the
15 following formula: $wba = mb - 2((mw-bpw)/250)$, rounded to the next
16 lower even-numbered dollar, or 10 percent of the state average weekly
17 wage for the time period used in computing the schedule under (c) of
18 this section, rounded to the nearest even-numbered dollar, whichever
19 is greater;

20 (3) in (2) of this subsection,

21 (A) wba = weekly benefit amount;

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

24 (C) mw = the base period wage of the person at the
25 75th percentile of all claimants eligible during the time period
26 used in computing the schedule; and

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

28 (e) An individual described in (d) of this section is entitled
29 to receive a weekly benefit under this chapter for the number of weeks

1 set out in column (B) of the table in this subsection opposite the
2 applicable earnings ratio of the individual set out in column (A):

3	(A)	(B)
4	Earnings Ratio	Number of Weeks
5	less than 1.49	16
6	1.50 - 1.99	18
7	2.00 - 2.49	20
8	2.50 - 2.99	22
9	3.00 - 3.49	24
10	3.50 or more	26

11 (f) An individual who establishes a benefit year after September
12 30, 1986, is eligible for an allowance for dependents in addition to
13 the individual's weekly benefit amount. The department may require
14 an individual claiming or receiving an allowance for dependents to
15 produce income tax returns, birth certificates, notices of adoption
16 or custody, social security account number of spouse, verification of
17 support documents, or other information necessary to verify that the
18 allowance is payable to the individual. The allowance for depend-
19 ents

20 (1) is \$24 per week for each dependent, except that the
21 total allowance for dependents paid to an individual may not exceed
22 \$72 for each week of unemployment;

23 (2) is payable beginning with the week during the benefit
24 year in which the individual claims an allowance for the dependent and
25 is payable for the remainder of the individual's eligibility for
26 regular, extended, or supplemental payments during the benefit year;
27 and

28 (3) may not be claimed for a new dependent after the end of
29 the benefit year or after the exhaustion of regular benefits in the

1 benefit year.

2 (g) In this section,

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

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

6 (i) lawfully in the individual's physical custody
7 at the time the individual claims the allowance for depen-
8 dents; or

9 (ii) dependent on the individual for more than 50
10 percent of support;

11 (B) unmarried child, stepchild, legally adopted child,
12 or legal ward of any age who is dependent on the individual for
13 more than 50 percent of support and who is prevented by infirmity
14 from engaging in a gainful occupation;

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

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

21 * Sec. 10. AS 23.20.390 is amended by adding a new subsection to read:

22 (f) In addition to the liability under (a) of this section for
23 the amount of benefits improperly paid, an individual who is disqual-
24 ified from receipt of benefits under AS 23.20.387 is liable to the
25 department for a penalty in an amount equal to 50 percent of the
26 benefits that were obtained by knowingly making a false statement or
27 misrepresenting a material fact, or knowingly failing to report a
28 material fact, with the intent to obtain or increase benefits under
29 this chapter. The department may, in accordance with regulations

1 adopted under this chapter, waive the collection of a penalty under
2 this section. The department shall transfer the penalty collected to
3 the training and building fund.

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

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

10 (b) The claim becomes a lien when the department files a notice
11 of the lien with the recording officer of the recording district in
12 which the property is located. The claim becomes a lien on a motor
13 vehicle when the department files a notice of the lien in the office
14 of the commissioner of public safety. Filing of the notice of lien is
15 constructive notice to creditors of the owner, and to subsequent
16 purchasers and encumbrancers, of the lien against the property de-
17 scribed in the notice.

18 (c) The department may release a notice of lien by filing a
19 certificate of release in the manner prescribed for the filing of a
20 notice of lien. The department may not file a certificate of release
21 until the amount of the claim, including a penalty, if any, is paid,
22 or until it receives assurance of payment that it considers adequate,
23 or until the individual is absolved from liability under AS 23.20.-
24 390(b).

25 * Sec. 12. AS 23.20 is amended by adding new sections to read:

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

27 (a) If the department's determination of liability under AS 23.20.-
28 390(f) is final and the individual has not made repayment within 90
29 days, the department may issue a notice of assessment, specifying the

1 amount due, and may serve it on the individual. A peace officer or an
2 authorized representative of the department may serve the notice
3 personally or the department may mail the notice by certified or
4 registered mail with return receipt requested.

5 (b) If the notice is served by mail, the notice shall be depos-
6 ited in the post office, postage paid, and addressed to the individual
7 at the individual's last address of record. The date of service is
8 considered to be the day of delivery shown on the delivery receipt.
9 However, if the department determines that the addressee is deliber-
10 ately avoiding service, then the date of service is the day of mail-
11 ing.

12 (c) If the amount assessed is not paid within 30 days after
13 personal service or mailing of the notice, the department may collect
14 the amount stated in the assessment by the distraint or seizure of the
15 property, assets, goods, and effects of the individual. Goods and
16 property exempt from execution under the laws of this state are exempt
17 from distraint under this section.

18 Sec. 23.20.394. NOTICE AND ORDER TO WITHHOLD AND DELIVER. (a)
19 The department may issue to a person or a political subdivision or
20 department of the state a notice and order to withhold and deliver
21 property of any kind if

22 (1) the department has reason to believe that the person,
23 political subdivision, or department possesses property that is due or
24 owing, or is the property of another person; and

25 (2) notice of assessment has been served at least 30 days
26 before the issuance of the notice and order to withhold and deliver.

27 (b) A peace officer or an authorized representative of the
28 department may serve the notice and order to withhold and deliver.
29 The person, political subdivision, or department upon whom service is

1 made shall answer the notice within 10 days.

2 (c) If the person, political subdivision, or department possess-
3 es property, credits, or money subject to the claim of the department,
4 it shall deliver the property to the department immediately upon
5 demand.

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

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

12 (13) "employer"

13 (A) means

14 (i) [(A)] an employing unit which for some portion
15 of a day within the calendar year has or had in employment
16 one or more individuals; and

17 (ii) [(B)] for the effective period of its election
18 under AS 23.20.325, an employing unit which has elected to
19 become subject to this chapter; and

20 (B) includes an officer or employee of a corporation or
21 a member or employee of a partnership who, as an officer, em-
22 ployee, or member, is under a duty to pay contributions, inter-
23 est, and penalties;

24 * Sec. 14. AS 23.20.520(21) is amended to read:

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

28 * Sec. 15. AS 23.20.530(a) is amended to read:

29 (a) In this chapter, "wages" means all remuneration for service

1 from whatever source, including, but not limited to, insured work,
2 noninsured work, or self-employment; commissions, bonuses, back pay
3 and the cash value of all remuneration in a medium other than cash
4 shall be treated as wages; gratuities customarily received by an
5 individual in the course of service from persons other than the indi-
6 vidual's employing unit may be treated as wages received from the
7 employing unit only to the extent the individual reports the gratu-
8 ities to the employing unit. The reasonable cash value of remunera-
9 tion in a medium other than cash, and the reasonable amount of gratu-
10 ities, shall be estimated and determined in accordance with regu-
11 lations adopted by the department; notwithstanding AS 23.20.350(a),
12 back pay awards shall be allocated to the weeks or quarters with
13 respect to which the pay was earned. If the remuneration of an indi-
14 vidual is not based upon a fixed period of time or if the individual's
15 wages are paid in irregular intervals or in a manner which does not
16 extend regularly over the period of employment, the wages shall be
17 allocated to weeks or quarters in accordance with regulations adopted
18 by the department. The regulations shall, so far as possible, produce
19 results reasonably similar to those that [WHICH] would prevail if the
20 individual's wages were paid at regular intervals. Wages earned for
21 services performed, but not paid because the employer has filed for
22 bankruptcy, are considered wages for the quarter in which they were
23 earned.

24 * Sec. 16. AS 23.20.175(a), 23.20.190(e), 23.20.240(f), and 23.20.-
25 277(1) are repealed.

26 * Sec. 17. AS 23.20.350 is repealed.

27 * Sec. 18. In 1987 and 1988, the percentage calculated under AS 23.-
28 20.277(m), added by sec. 6 of this Act, shall be based on the estimated
29 collected surcharge.

1 * Sec. 19. Sections 9, 11, 12, and 14 of this Act take effect October
2 1, 1986.

3 * Sec. 20. Sections 4 - 8, and 18 of this Act take effect January 1,
4 1987.

5 * Sec. 21. Section 17 of this Act takes effect October 1, 1988.