

HB

490

SENATE COMMITTEE REPORT

DATE: 04/22/04

FURTHER: Labor and Commerce

DATE TURNED IN TO OFFICE: 5/2/04

State Affairs Committee considered CS FOR HOUSE BILL NO. 490(JUD) am

HB 490 EMPLOYMENT SECURITY ACT AMENDMENTS

"An Act relating to the release of employment security records, to the binding effect of determinations and decisions regarding unemployment compensation benefits, and to contributions, interest, penalties, and payments under the Alaska Employment Security Act; providing that property under the Alaska Employment Security Act is not subject to the Uniform Unclaimed Property Act; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- Same Title
- New Title

House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DL+WD	7/9/03			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John C. Gaudin</i>			✓	
<i>Debra N. Johnson</i>			✓	
<i>James P. ...</i>			✓	
CHAIR: <i>[Signature]</i>				

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOWSKI,
GOVERNOR

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April 30, 2004

Honorable Gary Stevens
Chair, Senate State Affairs Committee
Alaska State Capitol, Room 417
Juneau, AK 99801-1182

Re: CSHB 490(JUD) am: Employment Security Act Amendments

Dear Senator Stevens:

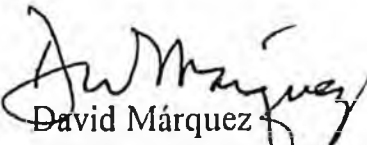
Thank you for scheduling a hearing on CSHB 490(JUD) am.

Attached is a sectional analysis for your committee's deliberations.

The Department of Law supports the bill, especially sec. 2. That section allows prosecutors better access to employment security records, to aid in investigations or prosecutions of crimes or to enforce certain orders of a court in criminal matters.

Sincerely,

GREGG D. RENKES
ATTORNEY GENERAL

By: 
David Márquez
Chief Assistant Attorney General

DEB:pvp

cc: Mike Tibbles, Legislative Director, Office of the Governor
Paula Scavera, Legislative Contact, Dept. of Labor and Workforce Dev.

CSHB 490(JUD) am

"AN ACT RELATING TO THE RELEASE OF EMPLOYMENT SECURITY RECORDS, TO THE ADMISSIBILITY OF DETERMINATIONS AND DECISIONS REGARDING UNEMPLOYMENT COMPENSATION BENEFITS, AND TO CONTRIBUTIONS, INTEREST, PENALTIES, AND PAYMENTS UNDER THE ALASKA EMPLOYMENT SECURITY ACT; PROVIDING THAT PROPERTY UNDER THE ALASKA EMPLOYMENT SECURITY ACT IS NOT SUBJECT TO THE UNIFORM UNCLAIMED PROPERTY ACT; AND PROVIDING FOR AN EFFECTIVE DATE."

SECTIONAL ANALYSIS

- Section 1:** Currently under AS 23.20.110(g), when the Employment Security Division ("ESD") provides employment security records to officers and employees of another state agency or a federal agency, the officers and employees must keep employment security records confidential. This section would amend AS 23.20.110(g) to add that when ESD provides employment security records to officers or employees of a municipal agency, the municipal officers and employees must also keep the records confidential. This amendment is necessary because under section 2 of the bill, ESD will be providing employment security records to municipal attorneys when they need them for criminal investigations and prosecutions.
- Section 2:** This new subsection to AS 23.20.110 will allow ESD to release employment security records for criminal investigations and prosecutions. ESD periodically receives requests for employment security records from the U.S. Attorney's Office, the District Attorney's Office, municipalities, and the FBI for purposes related to criminal investigations and prosecutions. Under AS 23.20.110, employment security records are confidential and does not allow the release of these records for criminal investigations or prosecutions purposes, except for employment security fraud cases. The U.S. Department of Labor has approved the amendment to allow ESD to release confidential employment security records for criminal investigation and prosecution purposes. Other states have allowed the release of these records for criminal investigation and prosecution purposes.

- Section 3:** This section would amend AS 23.20.115. AS 23.20.115 provides that it is a class B misdemeanor for an officer or employee of the state or a federal agency to make an unauthorized disclosure of employment security records. The amendment to AS 23.20.115 adds that it is a class B misdemeanor for an officer or employee of a municipality to make an unauthorized disclosure of employment security records.
- Section 4:** This section amends AS 23.20.225(e) to remove reference to the provisions of Department of Revenue law regarding disposal of abandoned property and authorizes the Department of Labor and Workforce Development to adopt regulations providing for the distribution of unclaimed excess contributions. Federal law requires that unclaimed excess contributions be deposited back to the UI Trust Fund rather than the state's general fund. Consequently, unclaimed excess contributions do not fall under the provisions of AS 34.45.110 – AS 34.45.430.
- Section 5:** Under the Employment Security Act, officers and employees of a corporation may be liable for employment security taxes if the corporation fails to pay the taxes. This section will add that members, managers and employees of a limited liability company ("LLC") may be liable for employment security taxes if the LLC fails to pay the taxes.
- Section 6:** This section will allow a member, manager, or employee of an LLC to appeal a determination of tax liability.
- Section 7:** Currently under AS 23.20.390(c), ESD can only recover, on behalf of another state, unemployment compensation benefits that a person fraudulently obtained. This bill would amend AS 23.20.390(e) to allow ESD to collect, on behalf of another state, any benefits to which a person was not entitled, even those that were not fraudulently obtained. This bill would bring Alaska into conformity with the Interstate Reciprocal Overpayment Recovery Arrangement.
- Section 8:** AS 23.20.497 currently provides that unemployment compensation decisions are not admissible in another action or proceeding. This amendment will clarify that under AS 23.20.497 unemployment compensation decisions are not admissible in an arbitration proceeding.

- Section 9:** This section defines "municipal agency."
- Section 10:** This section will bring the Employment Security Act into alignment with the Federal Unemployment Tax Act ("FUTA") by clarifying which health professionals are excluded from the definition of employment. Under FUTA, employed student nurses and medical interns are exempt from FUTA. This section would amend AS 23.20.526(a)(16) to similarly provide that student nurses and medical interns are exempt from the Employment Security Act. Therefore employers will not have to pay employment security taxes for these employees and these employees will not be able to collect unemployment benefits.
- Section 11:** This section would amend AS 23.20.530(b) by adding a new paragraph that provides an exclusion from the definition of "wages" for the payments or benefits provided by an employer under a plan to provide educational assistance to its employees. FUTA already provides for this exclusion from its definition of "wages" so this section brings the Employment Security Act into alignment with FUTA.
- Section 12:** This section provides a conforming amendment to section 4. The proposed amendment to AS 34.45.760(14) provides that for purposes of the Uniform Unclaimed Property Act, "property" does not include unclaimed excess contributions under the Employment Security Act.
- Section 13:** The Act would take effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 490
 (H) Publish Date: 2/16/04

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: "An Act relating to..." RDU: Employment Security
the Alaska Employment Security Act..." Component: Unemployment Insurance
 Sponsor: _____ Component Number: 2276
 Requester: _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: None
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This technical legislation will have no fiscal impact on the department.

Prepared by: Thomas W. Nelson, Director Phone 465-5933
 Division: Employment Security Division Date/Time 12/29/03 3:34 PM
 Approved by: Greg O'Claray, Commissioner Date 12/29/2003
 Agency: Department of Labor and Workforce Development