

BILLS 1981 - 1982

CSHB 156 cont. - HB 159

L.S. F. W.

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Sec. 20(b) states those situations where a request for proposal need not be extended. The first instance where a proposal need not be extended is where there is a "single source" of the expertise or where, because of "prior work", a single person or firm is able to perform the required tasks "more satisfactorily".

The second instance where a request for proposals need not be extended is where the ombudsman is contracting for an investigation under AS 24.55.100; the citation at AS 24.-55.100 is to the general authority of the ombudsman to "investigate the administrative acts of agencies".

Sec. 20(c)(1) provides that if the "single source" or the "prior work" exception from the requirements of the request for proposals [sec. 20(b)(1)] is used, the legislative committee may by a majority vote of the committee membership approve the "single source" or "prior work" exemption. If it does approve the exemption, the person responsible for awarding the contract is required to detail the reason for the exemption and then have the statement of reasons filed with a permanent agency of the legislature under bill section 24.23.040. The reasons stated in the justification are a matter of public record. The subsection also provides that the approval by the committee of the exception from the requirement for a request for proposals does not in itself constitute an approval of the contract.

Under sec. 20(c)(2), when a member of the legislature acting individually determines that the "single source" or "prior work" exemption should apply to a contract proposed to be let, the same written justification from the individual member is required; it is filed under Sec. 24.23.040 and is a matter of public record.

Sec. 20(d) states legislative policy that a proposal for a contract represent a sound approach to the investigation of a matter of legislative concern; a proposal shall be self-contained and written with care and thoroughness.

Sec. 20(e) requires that contracts not exempt under Sec. 24.23.010 (see above) be approved by the Legislative Council if they are for this agency; if for the legislative finance division or the legislative audit division, they shall be approved by the Legislative Budget and Audit Committee.

Senator Arliss Sturgulewski

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February 26, 1982

Sec. 20(f) permits a legislative committee or a member of the legislature to request the permanent divisions of the legislature to assist them in carrying out a staff-type responsibility to extend the request for proposals or to advertise in newspapers.

Sec. 30 is concerned with the award of the contract. Contracts made by a committee must be approved by a majority of the members of the full committee. The contract must be executed by the project officer and by the provider of the service; it must be approved as to form by the appropriate director of one of the stated legislative agencies [LAA, LFD, LAD] and also approved as to form by legislative counsel.

Sec. 30(b) requires that a contract awarded under this section contain the amount of the contract, the period of performance under the contract, and a description of the work to be carried out under the contract. Other substantive provisions of the contract should also be included.

Under sec. 35, a contract entered into by a legislative committee must have an evaluation of the services provided before the final payment under the contract can be made. Logically this requires that the payment for these contracts have a partial payment clause so that some funds (amount unspecified) be retained pending that evaluation. The evaluation is also a public document and should be filed with the contract. The bill does not specify that clearly.

Sec. 40 provides that the contract, the request for proposals and each proposal received, the exemptions granted under Sec. 24.23.020(b)(1), and logically the evaluation of the services under a legislative committee contract be filed with one of the permanent divisions of the legislature.

Bill section 2 amends the ombudsman law to require the ombudsman to adopt by regulation procedures consistent with AS 24.23 to be followed in the contracting for services.

An immediate effective date is provided.

If I may assist further, please advise.

RAB:ljb

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 14, 1982

SUBJECT: Public contracts
(SCS CSHB 156 (Finance))

TO: Senator Arliss Sturgulewski
Attn: Glen Svendsen

FROM: Thomas A. Sofo *TAS*
Legislative Counsel

The subject of Senate CS for CSHB 156 (Finance) is public contracts generally and more specifically procedures to be followed in letting certain contracts.

Section 1 adds an exception for professional service contracts to the general rule that highway contracts be let under bid.

Section 2 adds an exception for professional service contracts to the general rule that public facility contracts be let under bid.

Section 3 creates a new chapter establishing rules for legislative contract procedures.

AS 24.23.010 sets forth the application of the new chapter. The chapter applies to legislative contracts generally, but exempts (1) professional service contracts if awards to a person within twelve months are \$10,000 or less; (2) written employment contracts involving direct supervision; (3) contracts let by competitive bid under AS 37.05.230; and (4) contracts with municipalities and other state agencies.

AS 24.23.020 requires solicitation of proposals from at least six firms if the contract is \$100,000 or more, three firms if less than \$100,000. Formal advertising or the professional contractors services register, established later in this bill may be used in the solicitation process.

Senator Arliss Sturgulewski

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May 14, 1982

Requests for proposals are not necessary for sole source contracts. The exemption for a sole source contract must be justified by a written statement which is to be considered a public record.

AS 24.23.030. Contracts for the Legislative Affairs Agency shall be approved by the Legislative Council while contracts for the Legislative Finance or Audit Divisions shall be approved by the Legislative Budget and Audit Committee.

AS 24.23.040. A contract awarded by a legislative committee must be authorized by a majority vote of the committee. Contracts must be approved as to form by the Director of the Legislative Affairs Agency or the Director of the Legislative Finance or Legislative Audit Divisions and also by legislative legal counsel. Contracts shall contain the amount, period of performance, description of services, and a certification that sufficient money is available for the contract.

AS 24.23.050. Before final payment a written evaluation of the services provided under the contract must be prepared.

AS 24.23.060. Contracts, exemptions and requests for proposals are to be filed and open for public inspection.

AS 24.23.070 includes definition of professional services. This definition is the same which is used in the general chapter created later in this bill (AS 36.98) for professional services contracts.

Section 4 of the bill instructs the ombudsman to adopt regulations consistent with AS 24.23 to be followed by that office and specifically exempts investigative contracts of that office from the request for proposals procedure.

Section 5 of the bill creates a new chapter for professional services contracts which are entered into by the executive ~~or judicial~~ branches of state government as well as the University of Alaska.

AS 36.98.010. The new chapter applies to contracts for professional services generally but exempts (1) contracts for \$25,000 or less; (2) written employment contracts involving direct supervision; and (3) contracts let by competitive bid under AS 37.05.230.

AS 36.98.020. The Commissioner of the Department of Administration, the Commissioner of the Department of Transportation and Public Facilities, and the court ~~administrator~~ ^{AG} shall establish and maintain a professional services contractors register. Persons or firms may submit statements of qualifications and other information required by the commissioner for inclusion on the register.

AS 36.98.030. Public notice soliciting proposals for professional service contracts is required. A state agency shall also review the register and provide a request for proposals to each contractor on the register which the agency finds is qualified for consideration. Requires solicitations of proposals from at least six firms if the contract is \$100,000 or more, three firms if less than \$100,000. If the required number of proposals cannot be obtained due to lack of available expertise, state agencies shall at least solicit proposals from each person or firm on the register who appears qualified and from each person or firm responding to the public notice who appears qualified. Sole source contracts are exempt from the provisions of this section but require a written submission to the commissioner containing the reasons for the exemption. This section also does not apply in cases of public necessity or where the service is to be provided by another governmental agency.

AS 36.98.040 provides for uniform evaluation of contracts. Contracts must be submitted to the commissioner for review and approval. Contracts shall contain the amount, the period of performance, description of the services, and a certification that sufficient funds are available for the contract. Contracts which contain terms not typically included in the state standard form shall be reviewed by the Department of Law prior to award.

AS 36.98.050. Contracts are to be administered and monitored by the agency awarding the contract. At the completion of the contract the agency shall prepare a written evaluation of the services performed.

AS 36.98.060 Copies of contracts and requests for proposals shall be filed and open for public inspection.

AS 36.98.070. The commissioner shall adopt regulations, including grievance procedures concerning the manner of the

preparation and processing of professional services contracts.

AS 36.98.080. Definitions are self-explanatory. One unusual point is that in this chapter, commissioner means commissioner of the Department of Administration except for (1) those contracts issued by the Department of Transportation and Public Facilities in which case the word "commissioner" means the commissioner of transportation and public facilities; and ~~(2) those contracts with the judicial branch in which case "commissioner" means the administrative director of the court system.~~ (AS)

Section 6 raises the amount from \$2,500 to \$5,000 above which sealed bid procedures are to be used for state contracts generally. Also allows for limiting the solicitation of bids.

Section 7 of the bill raises the amount from \$2,500 to \$5,000 below which contractual services for state contracts generally may be obtained either by competitive bid or in the open market. Also raises the limit for "small purchases" which can be made on the open market from \$300 to \$500.

Section 8 merely identifies the addition of AS 24.23 and AS 36.98 to the state law.

Section 9 clarifies the criteria to be used in determining the lowest responsible bidder for contracts let under competitive bid. Provides for the application of AS 24.23 or AS 36.98 when making awards for professional service contracts.

Section 10. Only bids or proposals for professional services issued after the effective date of this will be subject to the new rules.

Section 11 provides for an immediate effective date.

TAS:ljb

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

3/3/82

Date:

4/1/82

Mr. Speaker:

The Committee on FINANCE has had HB 159

"An Act relating to workers' compensation; and providing for an effective date."

under consideration and ~~(a majority of the committee)~~ ~~(the committee)~~ reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 159 (Fin) same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note (3)
- reports it back without recommendation (317.9)
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Albert Adams

W.B. Stewart

Robert W. Carson

Don Puddy

James J. ...

...

Albert Adams
CHAIRMAN

DE

I. REQUEST
 Bill/Resolution No. Committee Substitute for House Bill No. 159 (L & C) (1 of 3)
 Title "An Act relating to workers' compensation, and providing for an effective . . ."
 Requested by Labor and Commerce Committee Date 3/1/82

II. FISCAL DETAIL

Agency Affected Labor
 Program Category Affected Worker Protection
 BRU, Program, or Subprogram(s) Affected Workers' Compensation

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		161.8	178.0	195.8	215.4	236.9
200 TRAVEL		20.0	22.0	24.2	26.6	29.3
300 CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400 COMMODITIES		3.4	3.7	4.1	4.5	4.9
500 EQUIPMENT		10.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(132.3)	(197.2)	(216.9)	(238.6)	(262.5)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
**Second Injury Fund		450.2	472.2	519.4	571.3	628.5

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

This fiscal note provides that the state administrative costs for rehabilitation under the proposed AS 23.30.041 be paid from the Second Injury Fund. This includes the costs of four new positions, plus the cost of four existing positions which entails a transfer in funding source from General Funds to Second Injury Funds.
 (Continued page 2)

IV. DATE 3/2/82 PREPARED BY Nico Bus
 AGENCY Labor
 PHONE 465-2720
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

TITLE: An Act relating to workers' compensation, and providing for an effective . . ."
Agency Affected: Department of Labor
Page 2

1. Assumes an inflation rate of 10% per annum after FY '83.
2. Assumes an effective date of July 1, 1982.
3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost \$16.6

100 Personal Services	\$ 5.5
200 Travel	5.0
300. Auto, Lease, Indirect, etc.	6.1
	<u>\$16.6</u>

The data processing operations cost will increase by \$14.0 because of enhancements for a tickler system, running two systems parallel and the files expansion to retain the addresses of all claimants.

The printing of 10,000 Workers' Compensation Acts and 25,000 Employee Information booklets. \$35.0.

The design and printing of new forms. \$2.5

Computer program modifications to implement the changes introduced by the bill. \$20.0

Equipment expense for computer terminals, panelling, cabinets, and files. \$6.0

Included one-time items in FY '83

Equipment	\$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	<u>\$67.9</u>

Funding Change

Items included in the FY 83 Governor's budget that will change funding sources from General Fund to the Second Injury Fund.

4 positions (including benefits)	\$141.3
Non-personal service costs relating to these 4 existing positions	
200: travel	9.9
300: contractual	25.8
400: commodities	2.3
	<u>179.3</u>

TITLE: An Act relating to workers' compensation, and providing for an effective . . ."
Agency Affected: Department of Labor
Page 3

FY'83 Component Breakdown:

Workers' Compensation Administration

Second Injury Fund

PS		\$161.8
Travel		20.0
Contract*	\$47.0	75.3
Commodities		3.4
Equipment		10.4
TOTAL	<u>\$47.0</u>	<u>\$270.9</u>

<u>Funding</u>	General Fund	Second Injury
Funding transfer	(179.3)	179.3
Rehabilitation Services/ delivery system	47.0	270.9
	<u>(132.3)</u>	<u>450.2</u>

*\$35,000 Workers Compensation Acts and Information Booklets; \$12,000 Data Processing

**Second Injury Fund is currently being reviewed to determine whether revenues are sufficient to cover the cost of rehabilitation. It may be necessary to amend AS 23.30.040 to increase the maximum percentage contribution rate.

1	POSITION TITLE Rehabilitation Administrator			RANGE/STEP 22A	BARG. UNIT.	LOCATION ERA	GOV.	APPROV.	DIRAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE		
3	TYPE OF EXPENDITURE			AMOUNT		<p>JUSTIFICATION:</p> <p>It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.</p> <p>The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.</p> <p>Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.</p> <p>9. Travel: \$10,000 (20 trips @ \$500 per trip) 10. Contractual: Space \$3,100 (to be transferred to DOA) Auto Lease & Operating Costs \$5,600 Indirect (11.46% x 44,568 = \$5,107) Other costs which include communications, equipment rental, etc., \$1,800 11. Commodities: Cost per position 12. Equipment: Desk, desk chair, side chairs, bookcase, file - \$1,600</p>			
	1	2	3						
4	PERSONAL SERVICES: SALARY 3714 x 12		44,568						
5	BENEFITS .1592		7,095						
6	SBS .0613		2,188						
7	FIXED BENEFITS 183 x 12		2,196						
8	TOTAL PERSONAL SERVICES 01		56,047						
9	TRAVEL 02		10,000						
10	CONTRACTUAL 03		15,607						
11	COMMODITIES 04		850						
12	EQUIPMENT 05		1,600						
13	OTHER								
14	TOTAL COST		84,104						
	RECEIPT CODE	FUNDING SOURCE							
15		FED RCPTS. 1002							
16		GF MATCH. 1003							
17	100	GEN. FUND 1004							
18		I-A RCPTS. 1005							
19		PGM RCPTS 1028							
20	841	OTHER Second Injury Fund		84,104					
21	CONTINUATION								
22	ADDITION	X	FOR B&M USE ONLY						
4A KEY NUMBER		COLUMN NO.							

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

Page 1 of 4 REVISED DATE _____

FY 83

1 POSITION TITLE Workers Compensation Officer II				RANGE/STEP 18A	BARG. UNIT. GRU	LOCATION JBA	GOV.	APPROV.	DISAPP.
2 TYPE OF POSITION PFT		STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 PAGE/LINE N/A	LEG.		
3 TYPE OF EXPENDITURE				JUSTIFICATION:					
		1	2	3					
4 PERSONAL SERVICES: SALARY 3249 x 12				38,988					
5 BENEFITS .1592				6,207					
6 SBS .0613				2,188					
7 FIXED BENEFITS 183 x 12				2,196					
8 TOTAL PERSONAL SERVICES 01				49,579					
9 TRAVEL 02				5,000					
10 CONTRACTUAL 03				14,968					
11 COMMODITIES 04				350					
12 EQUIPMENT 05				1,395					
13 OTHER				0					
14 TOTAL COST				71,792					

RECEIPT CODE		FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund 71,792	
21	CONTINUATION		
22	ADDITION X FOR B&M USE ONLY		

4A KEY NUMBER	COLUMN NO.
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It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilitation providers to expedite the retraining and re-employment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: \$5,000 (10 trips @ \$500 per trip)

10. Contractual: Space \$3,100 (to be transferred to DOA) Auto Lease, Maintenance Agreement & Operating Costs \$5,600 Indirect Costs (11.46% x 38,988 = \$4,468) Other costs which include communications, equipment rental, etc. \$1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, work-table, bookcase \$1,395

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

FY 83

1	POSITION TITLE Clerk Typist-III				RANGE/STEP 8B	DARG. UNIT. GRU	LOCATION AWA	GOV.	APPROV.	DIGAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	PP No. N/A	PCN No. New Position	PRIORITY	FORM 12 N/A	PAGE/LINE N/A	LEG.		
3	TYPE OF EXPENDITURE			AMOUNT	JUSTIFICATION: It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective. The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions. 10. Contractual: Space \$3,100 (to be transferred to DOA) Indirect (11.46% x 18,360 = \$2,104) Other costs which include communications, equipment rental, etc. \$1,800 11. Commodities: Cost per position 12. Equipment: Desk, desk chair \$700					
	1		2	3						
4	PERSONAL SERVICES: SALARY 1530 x 12		18,360							
5	BENEFITS .1592		2,923							
6	SBS .0613		1,125							
7	FIXED BENEFITS 183 x 12		2,196							
8	TOTAL PERSONAL SERVICES 01		24,604							
9	TRAVEL 02									
10	CONTRACTUAL 03		7,004							
11	COMMODITIES 04		850							
12	EQUIPMENT 05		700							
13	OTHER									
14	TOTAL COST		33,158							
	RECEIPT CODE	FUNDING SOURCE								
15		FED RCPTS. 1002								
16		GF MATCH. 1003								
17	100	GEN. FUND 1004								
18		I-A RCPTS. 1005								
19		PGM RCPTS 1028								
20	841	OTHER Second Injury Fund		33,158						
21	CONTINUATION									
22	ADDITION		X	FOR B&M USE ONLY						
4A KEY NUMBER				COUNTING NO.						

AGENCY Labor PROGRAM Worker Protection

DRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

Page 3 of 4 REVISED DATE _____

FY 83



1	POSITION TITLE Clerk IV			RANGE/STEP 9B	BARG. UNIT. GBUJ	LOCATION ERA	GOV.	APPROV.	DISAPP.					
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No. N/A	PCN No. New Position	PRIORITY	FORM 12 PAGE/LINE N/A	LEG							
3	TYPE OF EXPENDITURE			AMOUNT		JUSTIFICATION:								
	1	2	3											
4	PERSONAL SERVICES: SALARY 1627 x 12		19,524		<p>It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.</p> <p>The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.</p> <p>10. Contractual: Space \$3,100 (to be transferred to DOA) Indirect (11.46% x \$19,524 = \$2,237) Other costs which include communications, equipment rental, etc. \$1,800</p> <p>11. Commodities: Cost per position</p> <p>12. Equipment: Desk and desk chair \$700</p>									
5	BENEFITS .1592		3,108											
6	SBS .0613		1,197											
7	FIXED BENEFITS 183 x 12		2,196											
8	TOTAL PERSONAL SERVICES 01		25,025											
9	TRAVEL 02		0											
10	CONTRACTUAL 03		7,137											
11	COMMODITIES 04		850											
12	EQUIPMENT 05		700											
13	OTHER													
14	TOTAL COST		34,712											
	RECEIPT CODE	FUNDING SOURCE												
15		FED RCPTS. 1002												
16		GF MATCH. 1003												
17	100	GEN. FUND 1004												
18		I-A RCPTS. 1005												
19		PGM RCPTS 1078												
20	841	OTHER Second Injury Fund		34,712										
21	CONTINUATION													
22	ADDITION		X		FOR B&M USE ONLY									
4A- KEY NUMBER _____ COLUMN NO. _____														

AGENCY Labor PROGRAM Worker Protection
 BRU Workers' Compensation
 COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

FY 83

Original sponsor: Rules/Legislative Council

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 159 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND 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. LEGISLATIVE INTENT. It is the intent of the legislature in
10 enacting AS 23.30.041, added in sec. 5 of this Act, that an injured worker
11 receive rehabilitation services that enhance his returning to suitable gain-
12 ful employment as quickly as possible. In enacting AS 23.30.041, the legis-
13 lature recognizes the following five rehabilitation goals of a workers'
14 compensation program:

15

(1) early identification of injured workers who will eventually
16 need rehabilitation;

17

(2) use of competent rehabilitation providers;

18

(3) opportunities for return to direct employment;

19

(4) maintaining an atmosphere conducive to rehabilitation;

20

(5) providing incentives and removing disincentives to rehabili-

21

tation.

22

* Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

23

(c) An insurer may issue a policy of insurance insuring the pay-
24 ment of benefits under this chapter that provides for a deductible
25 amount to be paid by the employer. A policy with a deductible provision
26 must be approved by the director of insurance and must provide that the
27 deductible amount be paid by the insurer to the employee on behalf of
28 the employer. After payment of the deductible by the insurer, the
29 insurer may recover the deductible amount from the employer. The fail-

1 ure of an employer to reimburse an insurer for the deductible amount
2 does not relieve the insurer from any other obligation it may have under
3 the policy of insurance. An insurer is not required to apply for a
4 deviation under AS 21.39.070 in order to issue a policy under this
5 subsection. This subsection does not apply to a policy of excess insur-
6 ance purchased by a self-insurer.

7 * Sec. 3. AS 23.30.040(a) is repealed and reenacted to read:

8 (a) There is created a second injury fund, administered by the
9 commissioner. Money in the second injury fund may be used only for

10 (1) payments for the benefit of persons entitled to benefits
11 from the second injury fund under this chapter as ordered or awarded by
12 the board; and

13 (2) the cost of the rehabilitation services administered
14 under AS 23.30.041.

15 * Sec. 4. AS 23.30.040(b) is amended to read:

16 (b) If an employee suffers a compensable injury that results in
17 temporary total disability, temporary partial disability, permanent
18 partial disability, or permanent total disability, the employer or
19 insurance carrier shall contribute to the second injury fund. The
20 contribution shall be made by one year from the date of the injury or on
21 termination of the employee's claim, whichever is sooner. If the claim
22 is not terminated within one year, subsequent contributions shall be
23 made yearly until the termination of the employee's claim. The amount
24 of the contribution is the product of the compensation to which the
25 employee is entitled for temporary total disability, temporary partial
26 disability, permanent partial disability, permanent total disability, or
27 for rehabilitation under AS 20.30.041 [AS 23.30.191] and the applicable
28 contribution rate set out in column A of this subsection. Payment need
29 not be made to the second injury fund if the total contribution under

1 this section is less than \$20. By December 15 of each year the commis-
 2 sioner shall determine and make available to the public the applicable
 3 contribution rate for the following calendar year according to the
 4 reserve rate of the second injury 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	

16 * Sec. 5. AS 23.30.040(c) is repealed and reenacted to read:

17 (e) The board may authorize payment from the second injury fund of

18 (1) up to \$200 per month for maintenance to an employee being
 19 rehabilitated under AS 23.30.041 who suffers an extreme financial hard-
 20 ship;

21 (2) vocational rehabilitation expenses for books, tuition,
 22 tools and supplies.

23 * Sec. 6. AS 23.30 is amended by adding a new section to read:

24 Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The board
 25 shall select and employ a rehabilitation administrator and may authorize
 26 the rehabilitation administrator to select and employ additional rehabi-
 27 litation staff. The rehabilitation administrator is in the partially
 28 exempt service under AS 39.25.120.

29 (b) The rehabilitation administrator shall implement the provi-

1 sions of this section, study the issue of rehabilitation, both physical
2 and vocational, on a continuing basis, and shall investigate and main-
3 tain a directory of qualified rehabilitation facilities, agencies, and
4 providers, both public and private.

5 (c) When an employee suffers an injury covered by this chapter
6 that precludes return to suitable gainful employment, the employer shall
7 at its own expense promptly provide necessary and appropriate rehabili-
8 tation services and may make cooperative arrangements with insurance
9 carriers, private organizations and institutions, or state and federal
10 agencies. If rehabilitation services are not voluntarily offered, as
11 prescribed by regulations of the board, the rehabilitation administra-
12 tor, if he considers the services necessary and appropriate, may retain
13 a rehabilitation provider at the expense of the employer or carrier to
14 evaluate an employee and develop a rehabilitation plan.

15 (d) Vocational rehabilitation services may not exceed 37 weeks,
16 except that vocational rehabilitation services may be extended an addi-
17 tional 37 weeks if the rehabilitation administrator determines that
18 special circumstances exist. Nothing in this subsection prohibits an
19 employer or carrier from providing extended vocational rehabilitation
20 services on a voluntary basis. If rehabilitation requires residence
21 away from the employee's customary residence, reasonable cost of board,
22 lodging, and travel shall be paid by the employer. Temporary disability
23 under AS 23.30.185 or AS 23.30.200 shall be paid throughout the rehabi-
24 litation process.

25 (e) The employer and employee may agree on a vocational rehabili-
26 tation plan. If the employer and employee fail to agree on a vocational
27 rehabilitation plan, any of the parties may file a plan for approval
28 with the rehabilitation administrator. The rehabilitation administrator
29 shall approve or modify and approve a plan within 14 days after the plan

1 is filed.

2 (f) Within 10 days of the rehabilitation administrator's decision
3 to approve or modify and approve a rehabilitation plan any party may
4 seek review of the decision by requesting a hearing in accordance with
5 AS 23.30.110. A decision by the rehabilitation administrator is valid
6 unless a showing of clear error is made.

7 (g) Refusal by an injured employee to participate in an evaluation
8 or a rehabilitation plan approved by the rehabilitation administrator
9 results in forfeiture of disability compensation for the period the
10 refusal continues. However, if an employee begins participation in an
11 evaluation or rehabilitation plan within two months from the date of
12 refusal, and successfully completes the evaluation or rehabilitation
13 plan and becomes employed for a period of 30 consecutive business days
14 following the completion of the rehabilitation program, the employee
15 shall receive a lump-sum payment of 25 percent of the compensation
16 forfeited by him. The lump-sum payment is available only once to an
17 employee refusing rehabilitation. The rehabilitation administrator may
18 find that an employee refuses to participate in an evaluation or rehab-
19 ilitation plan if the employee fails to cooperate with the rehabilita-
20 tion provider.

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

22 (a) An employer is liable for and shall secure the payment to his
23 employees of the compensation payable under AS 23.30.041, 23.30.050,
24 23.30.095, 23.30.145, and 23.30.180 - 23.30.215. If the employer is a
25 subcontractor, the contractor is liable for and shall secure the payment
26 of the compensation to employees of the subcontractor unless the subcon-
27 tractor secures the payment.

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

29 (c) For a person eligible for vocational rehabilitation service

1 under this chapter or AS 23.15.080 [AND] who is placed with an employer
2 for service [WITHOUT WAGES] at the request of the board or the division
3 [OFFICE] of vocational rehabilitation to provide [GIVE HIM] on the job
4 training, work readiness, [OR] work therapy experience [,] or work
5 sampling, the liability set out in (a) of this section applies to the
6 state rather than to the employer.

7 * Sec. 9. AS 23.30.080 is amended by adding a new subsection to read:

8 (d) If an employer fails to insure or provide security as required
9 by AS 23.30.075, the board may issue a stop order prohibiting the use of
10 employee labor by the employer until the employer insures or provides
11 security as required by AS 23.30.075. The failure of an employer to
12 file evidence of compliance as required by AS 23.30.085 creates a rebut-
13 table presumption that the employer has failed to insure or provide
14 security as required by AS 23.30.075. If an employer fails to comply
15 with a stop order issued under this section, the board shall assess a
16 civil penalty of \$1,000 per day. The employer may not obtain a public
17 contract with the state or a political subdivision of the state for
18 three years following the violation of the stop order.

19 * Sec. 10. AS 23.30.095(c) is amended to read:

20 (c) No claim for medical or surgical treatment is valid and en-
21 forceable as against the employer unless, within 20 [TWENTY] days follow-
22 ing the first treatment and following the time set by the board for
23 notice of subsequent treatments, the physician giving the treatment or
24 the employee receiving it furnishes to the employer and the board notice
25 of the injury and treatment, preferably on a form prescribed by the
26 board. The board shall [MAY], however, excuse the failure to furnish
27 notice within 20 days when it finds it to be in the interest of justice
28 to do so, and it may, upon application by a party in interest, make an
29 award for the reasonable value of the medical or surgical treatment so

1 obtained by the employee.

2 * Sec. 11. AS 23.30.095(e) is amended to read:

3 (e) The employee shall, after an injury, at reasonable times
4 during the continuance of his disability if requested by his employer
5 or, when ordered by the board, submit himself to an examination by a
6 physician or surgeon authorized to practice medicine under the laws of
7 the state in which the employee may be found, furnished and paid for by
8 the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR
9 BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact
10 relative to the injury or claim communicated to or otherwise learned by
11 a physician or surgeon who may have attended or examined the employee,
12 or who may have been present at an examination is privileged, either in
13 the hearings provided for in this chapter or an action to recover
14 damages against an employer who is subject to the compensation provi-
15 sions of this chapter. If an employee refuses to submit himself to any
16 examination provided for in this section [HEREIN], his rights to compen-
17 sation shall be suspended until the obstruction or refusal ceases, and
18 his compensation during the period of suspension may, in the discretion
19 of the board or the court determining an action brought for the recovery
20 of damages under this chapter [HEREINAFTER], be forfeited. The board in
21 any case of death may require an autopsy at the expense of the party
22 requesting the autopsy. No autopsy may be held without notice first
23 being given to the widow or widower or next of kin if they reside in the
24 state or their whereabouts can be reasonably ascertained, of the time
25 and place of the autopsy and reasonable time and opportunity given the
26 widow or widower or next of kin to have a representative present to
27 witness the autopsy. If no adequate notice is given, the findings from
28 the autopsy may be suppressed on motion made to the board or to the
29 superior court, as the case may be.

1 * Sec. 12. AS 23.30.095 is amended by adding a new subsection to read:

2 (j) The board shall adopt and use a schedule for determining the
3 existence and degree of permanent impairment consistent with the Ameri-
4 can Medical Association Guide to the Evaluation of Permanent Impairment.

5 * Sec. 13. AS 23.30 is amended by adding a new section to article 3 to
6 read:

7 AS 23.30.097. RELEASE OF INFORMATION. Upon request by the rehab-
8 ilitation administrator the employee shall provide written authority to
9 the rehabilitation administrator to obtain medical and rehabilitation
10 information relative to the employee's injury.

11 * Sec. 14. AS 23.30.100(d)(2) is amended to read:

12 (2) If the board excuses the failure on the ground that for
13 some satisfactory reason notice could not be given; however, if delay
14 in giving notice is excused by the board, the burden of proof of the
15 validity of the claim shifts to the employee notwithstanding the pro-
16 visions of AS 23.30.120;

17 * Sec. 15. AS 23.30.110(c) is amended to read:

18 (c) The board shall make the investigation which it considers
19 necessary with [IN] respect to [OF] the claim, and upon application of
20 an interested party shall provide an opportunity for [ORDER] a hearing
21 on it. If a hearing on a claim is ordered, the board shall give the
22 claimant and other interested parties at least 10 days' notice of the
23 hearing, served personally upon the claimant and other interested parties
24 or sent by registered mail, and shall, within 30 [20] days after the
25 hearing record closes [IS HAD], by order, reject the claim or make an
26 award in respect to it. If a hearing is continued by the board, addi-
27 tional notice under this subsection is not required. [IF NO HEARING IS
28 ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS
29 SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN

1 RESPECT TO IT.]

2 * Sec. 16. AS 23.30.120(3) is amended to read:

3 (3) the injury was not proximately caused by the intoxication
4 of the injured employee or occasioned solely by the [INTOXICATION OF THE
5 INJURED] employee being under the influence of drugs unless the drugs
6 were taken as prescribed by the employee's physician;

7 * Sec. 17. AS 23.30 is amended by adding a new section to read:

8 Sec. 23.30.122. CREDIBILITY OF WITNESSES. The board has the sole
9 power to determine the credibility of a witness. A finding by the board
10 concerning the weight to be accorded a witness's testimony, including
11 medical testimony and reports, is conclusive even if the evidence is
12 conflicting or susceptible to contrary conclusions. The findings of the
13 board are subject to the same standard of review as a jury's finding in
14 a civil action.

15 * Sec. 18. AS 23.30.155(j) is amended to read:

16 (j) If an employer has made advance payments or overpayments of
17 compensation, he is entitled to be reimbursed, after approval by the
18 board, out of any unpaid installment or installments of compensation
19 due.

20 * Sec. 19. AS 23.30.175(a) is amended to read:

21 (a) The weekly rate of compensation for disability or death for a
22 recipient residing in Alaska may not exceed the percentage of the Alaska
23 average weekly wage in effect on the date of injury as determined by the
24 table contained in this subsection and initially may not be less than
25 \$110 [\$65] a week. However, if the board determines that the employee's
26 spendable [AVERAGE] weekly wages are less than \$110 [\$65] a week as
27 computed under AS 23.30.220, it shall issue an order decreasing the
28 weekly rate of compensation to a rate equal to the employee's spendable
29 [AVERAGE] weekly wages, and payments made earlier in excess of the

1 decreased rate shall be deducted from the unpaid compensation in the
2 manner the board determines. In any case, the employer shall pay timely
3 compensation.

4 On	The Rate Shall Be
5 July 1, 1975	80 percent of the Alaska 6 average weekly wage
7 January 1, 1976	100 percent of the Alaska 8 average weekly wage
9 January 1, 1977	133.3 percent of the Alaska 10 average weekly wage
11 January 1, 1979	166.6 percent of the Alaska 12 average weekly wage
13 January 1, 1981	200 percent of the Alaska 14 average weekly wage

15 * Sec. 20. AS 23.30.175(b) is repealed and reenacted to read:

16 (b) After June 30 and before December 1 of each year, the commis-
17 sioner shall adopt and publish the average weekly wage for each juris-
18 diction for the preceding calendar year as published by the United
19 States Secretary of Labor for the purposes of unemployment insurance.
20 In determining the rate of compensation the commissioner shall use the
21 average weekly wage figure for each jurisdiction, including Alaska, for
22 which the Secretary of Labor computes an average weekly wage. These
23 figures are the applicable average weekly wages for those jurisdictions
24 for the following calendar year.

25 * Sec. 21. AS 23.30.175(c) is repealed and reenacted to read:

26 (c) The following rules apply to recipients who do not reside in
27 Alaska:

28 (1) The weekly rate of compensation shall be calculated by
29 multiplying the recipient's weekly compensation rate calculated in

1 accordance with AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.-
2 215 times the ratio of the average weekly wage of the jurisdiction in
3 which the recipient resides to the average weekly wage of Alaska. The
4 ratio is based on the average weekly wages in effect when the recipient
5 leaves Alaska and shall be adjusted annually upon publication of the
6 average weekly wages for all jurisdictions.

7 (2) The calculation required by this subsection does not
8 apply if the recipient is absent from Alaska for medical or rehabilita-
9 tion services not reasonably available in Alaska.

10 (3) If the spendable weekly wage of the recipient and the
11 resulting compensation rate is determined under AS 23.30.220(2), the
12 calculation required by this subsection applies to only those gross
13 earnings earned in Alaska.

14 (4) Application of this subsection may not result in a reduc-
15 tion of the weekly compensation rate to less than \$110 a week except as
16 provided in (a) of this section.

17 * Sec. 22. AS 23.30.175(d) is repealed and reenacted to read:

18 (d) In a jurisdiction for which no average weekly wage is computed
19 by the United States Secretary of Labor for the purposes of unemployment
20 insurance, the average weekly wage shall be as determined by the commis-
21 sioner.

22 * Sec. 23. AS 23.30.180 is amended to read:

23 Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total
24 disability adjudged to be permanent 80 [66 2/3] percent of the injured
25 employee's spendable [AVERAGE] weekly wages shall be paid to the
26 employee during the continuance of the total disability. Loss of both
27 hands, or both arms, or both feet, or both legs, or both eyes, or of any
28 two of them, in the absence of conclusive proof to the contrary, consti-
29 tutes permanent total disability. In all other cases permanent total

1 disability is determined in accordance with the facts.

2 * Sec. 24. AS 23.30.185 is amended to read:

3 Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In
4 case of disability total in character but temporary in quality, 80 [66
5 2/3] percent of the injured employee's spendable [AVERAGE] weekly wages
6 shall be paid to the employee during the continuance of the disability.

7 * Sec. 25. AS 23.30.190 is amended to read:

8 Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY.

9 (a) In case of disability partial in character but permanent in quality
10 the compensation is 80 [66 2/3] percent of the injured employee's
11 spendable [AVERAGE] weekly wages in addition to compensation for tempor-
12 ary total disability or temporary partial disability paid in accordance
13 with AS 23.30.185 or 23.30.200, respectively, and shall be paid to the
14 employee as follows:

15 (1) arm lost, 280 weeks compensation, not to exceed \$59,000
16 [\$43,680];

17 (2) leg lost, 248 weeks compensation, not to exceed \$54,400
18 [\$40,320];

19 (3) hand lost, 212 weeks compensation, not to exceed \$45,400
20 [\$33,600];

21 (4) foot lost, 173 weeks compensation, not to exceed \$39,700
22 [\$28,700];

23 (5) eye lost, 140 weeks compensation, not to exceed \$30,200
24 [\$22,400];

25 (6) thumb lost, 51 weeks compensation, not to exceed \$14,000
26 [\$10,400];

27 (7) first finger lost, 29 weeks compensation, not to exceed
28 \$8,700 [\$6,440];

29 (8) great toe lost, 26 weeks compensation, not to exceed

1 \$7,200 [\$5,320];

2 (9) second finger lost, 18 weeks compensation, not to exceed
3 \$5,700 [\$4,200]; third finger lost, 18 weeks compensation, not to exceed
4 \$4,700 [\$3,500];

5 (10) toe other than great toe lost, eight weeks compensation,
6 not to exceed \$3,000 [\$2,240];

7 (11) fourth finger lost, seven weeks compensation, not to
8 exceed \$2,800 [\$2,100];

9 (12) loss of hearing of one ear, 52 weeks compensation, not
10 exceeding \$9,800 [\$7,280]; loss of hearing of both ears, 200 weeks
11 compensation, not to exceed \$37,800 [\$28,000];

12 (13) compensation for loss of more than one phalange of a
13 digit shall be the same as for loss of the entire digit; compensation
14 for loss of the first phalange is one-half of the compensation for loss
15 of the entire digit;

16 (14) amputation between the elbow and the wrist is considered
17 equivalent to the loss of an arm, and amputation between the knee and
18 ankle is considered equivalent to the loss of a leg;

19 (15) compensation for loss of binocular vision or for 80 per-
20 cent or more of the vision of an eye is the same as for loss of the eye;

21 (16) compensation for loss of two or more digits, or one or
22 more phalanges of two or more digits of a hand or foot may be propor-
23 tioned to the resulting loss of use of the injured hand or foot, but may
24 not exceed the compensation for loss of a hand or foot;

25 (17) compensation for permanent total loss of use of a member
26 is the same as for loss of the member;

27 (18) compensation for permanent partial loss or loss of use of
28 a member may be for proportionate loss or loss of use of the member;

29 (19) in addition to other allowable compensation, the board

1 shall award proper and equitable compensation up to \$10,000 for

2 (A) serious disfigurement of face, head and, when such
3 disfigurement is likely to handicap the employee in securing or
4 holding employment, for serious disfigurement of neck or limbs
5 normally exposed, or

6 (B) partial or total loss of or loss of use of a part or
7 function of the body not otherwise provided for under this section;

8 (20) in all other cases in this class of disability the compen-
9 sation is 80 [66 2/3] percent of the difference between his spendable
10 [AVERAGE] weekly wages and his wage-earning capacity after the injury in
11 the same employment or otherwise, payable during the continuance of the
12 partial disability, but subject to modification [RECONSIDERATION OF THE
13 DEGREE OF THE IMPAIRMENT] by the board on its own motion or upon appli-
14 cation of a party in interest; whenever the board determines that it is
15 in the interest of justice, the liability of the employer for compensa-
16 tion, or any part of it as determined by the board, may be discharged by
17 the payment of a lump sum;

18 (21) in a case in which there is a loss of, or loss of use of
19 more than one member or parts of more than one member set out in (1) -
20 (18) of this section, not amounting to permanent total disability, the
21 award of compensation is for the loss of, or loss of use of, each member
22 or part of the member, which awards shall run consecutively, except that
23 where the injury affects only two or more digits of the same hand or
24 foot, (16) of this section applies.

25 (b) Total compensation paid under (a)(20) of this section may not
26 exceed \$75,000 [\$60,000].

27 * Sec. 26. AS 23.30.200 is amended to read:

28 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of tempor-
29 ary partial disability resulting in decrease of earning capacity the

1 compensation shall be 80 [66 2/3] percent of the difference between the
2 injured employee's spendable [AVERAGE] weekly wages before the injury
3 and his wage earning capacity after the injury in the same or another
4 employment, to be paid during the continuance of the disability, but not
5 to be paid for more than five years.

6 * Sec. 27. AS 23.30.210 is amended to read:

7 Sec. 23.30.210. DETERMINATION OF WAGE-EARNING CAPACITY. In a
8 case of partial disability under AS 23.30.190(20) or 23.30.200 the
9 wage-earning capacity of an injured employee is determined by his actual
10 spendable weekly wage [EARNINGS] if the actual spendable weekly wage
11 [EARNINGS] fairly and reasonably represent his wage-earning capacity.
12 If the employee has no actual spendable weekly wage [EARNINGS] or his
13 actual spendable weekly wage does [EARNINGS DO] not fairly and reasonably
14 represent his wage-earning capacity, the board may, in the interest of
15 justice, fix the wage-earning capacity which is reasonable, having due
16 regard to the nature of his injury, the degree of physical impairment,
17 his usual employment, and any other factors or circumstances in the case
18 which may affect his capacity to earn wages in his disabled condition,
19 including the effect of disability as it may naturally extend into the
20 future.

21 * Sec. 28. AS 23.30.215(a) is amended to read:

22 (a) If the injury causes death, the compensation is known as a
23 death benefit and is payable in the following amounts to or for the
24 benefit of the following persons:

25 (1) reasonable and necessary funeral expenses not exceeding
26 \$2,500 [\$1,000];

27 (2) if there is a widow or widower or a child or children of
28 the deceased, the following percentages of the spendable [AVERAGE]
29 weekly wages of the deceased:

1 (A) 80 [66 2/3] percent for the widow or widower with no
2 children;

3 (B) 40 [33 1/3] percent for the widow or widower with
4 one child and 40 [33 1/3] percent for the child;

5 (C) 25 [20] percent for the widow or widower with two or
6 more children and 55 [46 2/3] percent divided equally among the
7 children;

8 (D) repealed;

9 (E) 30 [66 2/3] percent for an only child when there is
10 no widow or widower;

11 (F) repealed;

12 (G) 80 [66 2/3] percent, divided equally, if there are
13 two or more children and no widow or widower;

14 (3) if the widow or widower remarries, she or he is entitled
15 to be paid in one sum an amount equal to the compensation to which the
16 widow or widower would otherwise be entitled in the two years commencing
17 on the date of remarriage as full and final settlement of all sums due
18 the widow or widower;

19 (4) if there is no widow or widower or child or children,
20 then for the support of father, mother, grandchildren, brothers and
21 sisters, if dependent upon the deceased at the time of injury, 42 [35]
22 percent of the spendable [AVERAGE] weekly wage of the deceased to such
23 beneficiaries, share and share alike, not to exceed \$20,000 in the
24 aggregate.

25 * Sec. 29. AS 23.30.215(b) is amended to read:

26 (b) In computing death benefits, the spendable [AVERAGE] weekly
27 wage of the deceased shall be computed under AS 23.30.220 and shall be
28 paid in accordance with AS 23.30.155 and subject to the weekly maximum
29 limitation in the aggregate as provided in AS 23.30.175, but the total

1 weekly compensation may not be less than \$75 [\$45] for a widow or widower
2 nor less than \$25 [\$15] weekly to a child or \$50 [\$30] for children.

3 * Sec. 30. AS 23.30.220 is repealed and reenacted to read:

4 Sec. 23.30.220. DETERMINATION OF SPENDABLE WEEKLY WAGE. The
5 spendable weekly wage of the injured employee at the time of the injury
6 is the basis for computing compensation. It is the employee's gross
7 weekly earnings minus payroll tax deductions. The gross weekly earnings
8 shall be calculated as follows:

9 (1) If at the time of the injury the employee has been in the
10 gainful employ of the employer for the full reporting quarter immediately
11 before the time of injury, the gross weekly earnings are computed by
12 dividing by 13 the gross earnings the employee earned in the employ of
13 the employer in that reporting quarter.

14 (2) If at the time of the injury the employee has not been in
15 the employ of the employer for the full reporting quarter immediately
16 before the time of injury, the gross weekly earnings are computed by
17 dividing by 100 the gross earnings of the employee in the two calendar
18 years immediately preceding the injury.

19 (3) If the board determines that the gross weekly earnings at
20 the time of the injury cannot be fairly calculated under (1) or (2) of
21 this section, or cannot otherwise be ascertained without undue hardship
22 to the employee, the gross weekly earnings for calculating compensation
23 are the usual gross earnings for similar service rendered by paid
24 employees under similar circumstances as determined by the board.

25 (4) If an employee when injured is a minor or an apprentice,
26 or a trainee, as determined by the board, whose wages under normal
27 conditions would increase during the period of disability, the projected
28 increase may be considered by the board in computing his gross weekly
29 earnings.

1 (5) If the employee is injured while performing his duties as
2 a volunteer ambulance attendant, policeman, or fireman, the gross weekly
3 earnings for calculating compensation shall be the minimum gross weekly
4 earnings paid a full-time ambulance attendant, policeman, or fireman
5 employed in the political subdivision where the injury occurred, or, if
6 the political subdivision has no full-time ambulance attendants, police-
7 men, or firemen, at a reasonable figure previously set by the political
8 subdivision to make this determination but in no case may the gross
9 weekly earnings for calculating compensation be less than the minimum
10 wage computed on the basis of 40 hours work per week.

11 * Sec. 31. AS 23.30 is amended by adding a new section to read:

12 Sec. 23.30.227. EFFECT OF UNEMPLOYMENT BENEFITS. Compensation is
13 not payable to an employee under AS 23.30.180 or 23.30.185 for a week in
14 which the employee receives unemployment benefits.

15 * Sec. 32. AS 23.30.235 is repealed and reenacted to read:

16 Sec. 23.30.235. CASES IN WHICH NO COMPENSATION IS PAYABLE. Compensa-
17 tion under this chapter may not be allowed for an injury

18 (1) proximately caused by the employee's wilful intent to
19 injure or kill himself or another;

20 (2) proximately caused by intoxication of the injured employee
21 or occasioned solely by the employee being under the influence of drugs
22 unless the drugs were taken as prescribed by the employee's physician.

23 * Sec. 33. AS 23.30.250 is amended to read:

24 Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who wil-
25 fully makes a false or misleading statement or representation for the
26 purpose of obtaining or denying a benefit or payment under this chapter
27 is guilty of theft by deception as defined in AS 11.46.130 and is pun-
28 ishable as provided in 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON
29 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRI-

1 SONNMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

2 * Sec. 34. AS 23.30.255(a) is amended to read:

3 (a) An employer required to secure the payment of compensation
4 under this chapter who fails to do so is guilty of a class B felony if
5 the amount involved exceeds \$25,000 or a class C felony if the amount
6 involved is \$25,000 or less [MISDEMEANOR AND UPON CONVICTION IS PUNISH-
7 ABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR NOT MORE
8 THAN ONE YEAR, OR BY BOTH]. If the employer is a corporation, its
9 president, secretary, and treasurer are also severally liable to the
10 fine or imprisonment imposed [PROVIDED IN THIS SECTION] for the failure
11 of the corporation to secure the payment of compensation. The presi-
12 dent, secretary, and treasurer are severally personally liable, jointly
13 with the corporation, for the compensation or other benefit which accrued
14 under this chapter in respect to an injury which happens to an employee
15 of the corporation while it has failed to secure the payment of compen-
16 sation as required by AS 23.30.075.

17 * Sec. 35. AS 23.30.255(b) is amended to read:

18 (b) An employer who knowingly transfers, sells, encumbers, assigns,
19 or in any manner disposes of, conceals, secretes, or destroys any of his
20 property after one of his employees has been injured within the scope of
21 this chapter, with intent to avoid the payment of compensation under
22 this chapter to the employee or his dependents, is guilty of a class B
23 felony if the amount involved exceeds \$25,000 or a class C felony if
24 the amount involved is \$25,000 or less [MISDEMEANOR, AND UPON CONVICTION
25 IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR
26 NOT MORE THAN ONE YEAR, OR BY BOTH]. If the employer is a corporation,
27 its president, secretary, and treasurer are also severally liable to the
28 penalty of imprisonment as well as jointly liable with the corporation
29 for the fine.

1 * Sec. 36. AS 23.30.265 is amended by adding new paragraphs to read:

2 (29) "arising out of and in the course of employment" includes
3 employer-required or supplied travel to and from a remote job site;
4 activities performed at the direction or under the control of the
5 employer; and employer-sanctioned activities at employer-provided facili-
6 ties; but excludes activities of a personal nature away from employer-
7 provided facilities;

8 (30) "drugs" means a controlled substance as defined by law;

9 (31) "gross earnings" means recurring payments, by an employer
10 to an employee for employment before any authorized or lawfully required
11 deduction or withholding of money by the employer, including compensa-
12 tion that is deferred at the option of the employee, and excluding
13 irregular bonuses, reimbursement of expenses, expense allowances, and
14 any benefit or payment to the employee that is not taxable to the
15 employee during the pay period; the value of room and board to the
16 employee may be considered in determining gross earnings for those
17 employees with gross weekly earnings that are less than the Alaska
18 average weekly wage at the time of injury;

19 (32) "gross weekly earnings" means gross weekly earnings as
20 calculated under AS 23.30.220;

21 (33) "payroll taxes" means (A) the amount that would be with-
22 held under withholding tables in effect on the January 1 preceding the
23 injury under the Internal Revenue Code of 1954 (as amended) and regula-
24 tions issued under the code, as though the employee had claimed the
25 maximum number of dependents for actual dependency, blindness, and old
26 age to which the employee is entitled on the date on which he is injured;
27 and (B) if the employer is subject to the Social Security Act of 1935 as
28 amended, the amount that would be deducted or withheld as of the Janu-
29 ary 1 preceding the injury under that act from the amount of earnings of

1 the employee at the time of the injury as if the earnings were earned at
2 the beginning of the calendar year in which he was injured and regardless
3 of whether the amount was actually withheld or the earnings were subject
4 to withholding; the commissioner shall annually prepare formulas that
5 shall be used to calculate an employee's spendable weekly wage on the
6 basis of his gross weekly earnings, number of dependents, marital status,
7 and payroll tax deductions;

8 (24) "reporting quarter" means one of the three-month periods
9 (January through March, April through June, July through September,
10 October through December) used to report employee wages to the Internal
11 Revenue Service;

12 (35) "suitable gainful employment" means employment that is
13 reasonably attainable in light of an individual's age, education, pre-
14 vious occupation, and injury, and that offers an opportunity to restore
15 the individual as soon as practical to a remunerative occupation and as
16 nearly as possible to his gross weekly earnings as determined at the
17 time of injury.

18 * Sec. 37. AS 39.25.120 is amended by adding a new paragraph to read:

19 (20) the rehabilitation administrator of the Workers' Compensa-
20 tion Board.

21 * Sec. 38. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), 23.30.-
22 191, and 23.30.265(20) are repealed.

23 * Sec. 39. The board shall publish AS 23.30.235 and AS 23.30.250 as
24 enacted in secs. 32 and 33 of this Act as part of a document describing the
25 employee's rights and obligations under the Alaska Workers' Compensation Act.
26 The publication shall be mailed or otherwise made available to an injured
27 worker upon notice of an injury.

28 * Sec. 40. Sections 6, 19 - 30, 32, and 36 of this Act apply only to
29 injuries sustained after the effective date of this Act.

* Sec. 41. This Act takes effect July 1, 1982.

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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

HB 159

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 159
Title An Act Relating to Workers' Compensation and providing for an effective date.
Requested by House Labor and Commerce Committee Date 3/4/81

II. FISCAL DETAIL

Agency Affected Workers' Compensation Division, Department of Labor
Program Category Affected Worker Protection
BRU, Program, or Subprogram(s) Affected Workers' Compensation
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		83.9	90.6	97.8	105.6	114.0
200 TRAVEL		7.3	7.9	8.5	9.2	9.9
300 CONTRACTUAL		17.6	19.0	20.5	22.1	23.9
400 COMMODITIES		1.5	1.6	1.7	1.8	1.9
500 EQUIPMENT		3.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		113.3	119.1	128.5	138.7	149.7

FUNDING (Thousands of Dollars)

GENERAL FUND		113.3	119.1	128.5	138.7	149.7
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		3	3	3	3	3
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

- 1.) Personal Services Cost at current salary and benefit cost (1/1/81).
- 2.) Travel Statewide - Workers' Compensation Officer II.
- 3.) Contractual Services - includes Indirect Cost (Administrative Services), rental space and other.
- 4.) Equipment - one time items to set up the new employees with desk, chair, cabinets and partitions.
- 5.) Assumes effective date July 1, 1981.
- 6.) Inflation factor used 8%, all items.

IV. DATE 3/4/81 PREPARED BY Mico Bus
AGENCY Labor
PHONE 465-2720
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

1.	Position Title Workers' Compensation Officer II			Range/Step 18 A	Barg. Unit G	Location Anchorage	Gov.	Approv.	Disapp.
2.	Type of Position PFT	Staff Months 12	RP No.	PCN No.	Priority	Form 12 page/line	Leg.		
3.	Type of Expenditure			Amount		<p>The 7.3 travel includes 4.5 transportation and 3.0 per diem for statewide travel to conduct investigations. The 7.8 contractual is 2.0 phone and postage, 2.7 space rental and 3.1 indirect (Administrative Services). The .5 commodities is for office supplies. The 1.6 equipment is .7 for a desk and chair and .9 for partitions.</p> <p>This position will investigate businesses statewide to assure that employers subject to AS 23.30 have insured or provided security for Workers' Compensation liability as required under AS 23.30.075 and will testify and present evidence at Board hearings concerning issuance to stop orders and assessment of penalties under AS 23.30.080(d).</p> <p>Addresses BRU objectives 1, 3 and 4 and provides the means to enforce the provisions of the Act that an employer insure or provide security for workers' compensation liability to their employees.</p>			
	1	2	3						
4.	Personal Services:								
	Salary	2640 x 12	31,680						
5.	Benefits	15.87	5,028						
6.	FICA	.0613	1,942						
7.	Health Ins.	150 x 12	1,800						
8.	Total Personal Services	01	40,450						
9.	Travel	02	7,300						
10.	Contractual	03	7,789						
11.	Commodities	04	500						
12.	Equipment	05	1,600						
13.	Other								
14.	Total Cost		57,639						
	CODE	FUNDING SOURCE							
15.		FED RECPT. 1002							
16.		GF MATCH. 1003							
17.		GEN. FUND 1004		57,639					
18.		I-A RCPTS. 1005							
19.		PGM RCPTS 1028							
20.		OTHER							
21.	CONTINUATION								
22.	ADDITION								

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor

PROGRAM Worker Protection

REVISED DATE _____

BRU Workers' Compensation

PAGE 1 OF 3 **FY 82**

COMPONENT Workers' Compensation

13 REQUEST FOR NEW POSITION.

1

1.	Position Title Clerk I			Range/Step 6 A	Barg. Unit G	Location Juneau	Gov.	Approv.	Disapp.
2.	Type of Position PFT	Staff Months 12	RP No.	PCN No.	Priority	Form 12 page/line	Leg.		
3.	Type of Expenditure			Amount					
	1		2		3				
4.	Personal Services:								
	Salary	1249 x 12	14,988						
5.	Benefits	15.87	2,379						
6.	FICA	.0613	919						
7.	Health Ins.		1,800						
8.	Total Personal Services 01			20,086					
9.	Travel		02						
10.	Contractual		03		4,161				
11.	Commodities		04		500				
12.	Equipment		05		700				
13.	Other								
14.	Total Cost			25,447					
	CODE	FUNDING SOURCE							
15.		FED RECPT. 1002							
16.		GF MATCH. 1003							
17.		GEN. FUND 1004			25,447				
18.		I-A RCPTS. 1005							
19.		PGM RCPTS 1028							
20.		OTHER							
21.	CONTINUATION								
22.	ADDITION								

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The 4.2 contractual consists of 2.7 space rental and 1.5 indirect (Administrative Services). The .5 commodities is for office supplies; the .7 equipment is a desk and chair.

This position will provide full-time filing and general clerical assistance to the Division. The additional reports required of employers insurance carriers will be distributed and filed by this position. A full-time filing position will allow the filing to be kept current and avoid delays in searching for unfiled reports.

AGENCY Labor

PROGRAM Worker Protection

REVISED
DATE _____

BRU Workers' Compensation

PAGE 2 OF 3 **FY 82**

COMPONENT Workers' Compensation

13 REQUEST FOR NEW
POSITION.

1

1.	Position Title Data Control Clerk I			Range/Step 9 A	Barg. Unit G	Location Juneau	Gov.	Approv.	Disapp.
2.	Type of Position PFT	Staff Months 12	RP No.	PCN No.	Priority	Form 12 page/line	Leg.		
3.	Type of Expenditure			Amount					
	1	2	3						
4.	Personal Services:								
	Salary	1475 x 12	17,700						
5.	Benefits	15.87	2,809						
6.	FICA	.0613	1,085						
7.	Health Ins.		1,800						
8.	Total Personal Services 01		23,394						
9.	Travel	02	-0-						
10.	Contractual	03	5,626						
11.	Commodities	04	500						
12.	Equipment	05	700						
13.	Other								
14.	Total Cost		30,220						
	CODE	FUNDING SOURCE							
15.		FED RECPT. 1002							
16.		GF MATCH. 1003							
17.		GEN. FUND 1004		30,220					
18.		I-A RCPTS. 1005							
19.		PGM RCPTS 1028							
20.		OTHER							
21.	CONTINUATION								
22.	ADDITION								

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The 5.6 contractual consists of 2.7 space rental, 1.7 indirect (Administrative Services) and 1.2 for computer terminal leasing. The .5 commodities is for office supplies. The .7 equipment is a desk and chair.

This position will handle part of the increased workload in the filing and coding units due to the increased reporting requirements of employers' insurance carriers. The information from the additional reports will be entered via computer terminal into our new information handling system. This data will give the Division accurate statistics on all costs of every claim as well as precise computations as to the carrier's change in any claimant payment.

AGENCY Labor

PROGRAM Worker Protection

REVISED
DATE _____

BRU Workers' Compensation

PAGE 3 OF FY 82

COMPONENT Workers' Compensation

13 REQUEST FOR NEW
POSITION.



Final
Adding New section 3
copy attached

Original sponsor: Rules/Legislative Council

Offered: 3/3/82
Referred: Finance

Finance

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 159 (L&C) FIN

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND 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. LEGISLATIVE INTENT. It is the intent of the legislature in
10 enacting AS 23.30.041, added in sec. 5 of this Act, that an injured worker
11 receive rehabilitation services that enhance his returning to suitable gain-
12 ful employment as quickly as possible. In enacting AS 23.30.041, the legis-
13 lature recognizes the following five rehabilitation goals of a workers'
14 compensation program:

- 15 (1) early identification of injured workers who will eventually
16 need rehabilitation;
- 17 (2) use of competent rehabilitation providers;
- 18 (3) opportunities for return to direct employment;
- 19 (4) maintaining an atmosphere conducive to rehabilitation;
- 20 (5) providing incentives and removing disincentives to rehabili-
21 tation.

22 * Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

23 (c) An insurer may issue a policy of insurance insuring the pay-
24 ment of benefits under this chapter that provides for a deductible
25 amount to be paid by the employer. A policy with a deductible provision
26 must be approved by the director of insurance and must provide that the
27 deductible amount be paid by the insurer to the employee on behalf of
28 the employer. After payment of the deductible by the insurer, the
29 insurer may recover the deductible amount from the employer. The fail-

A M E N D M E N T

Offered in the HOUSE

By ~~Martin and Rogers~~

TO: CSHB 159 ^{FIN} ~~(L&C)~~

Page 2, after line 6: insert the following new material:

* Sec. 3. AS 23.30.040(a) is repealed and reenacted to read:

(a) There is created a second injury fund, administered by the commissioner. Money in the second injury fund may be used only for

(1) payments for the benefit of persons entitled to benefits from the second injury fund under this chapter as ordered or awarded by the board; and

(2) the cost of the rehabilitation services administered under AS 23.30.041.

Renumber subsequent bill sections.

Original sponsor: Rules/Legislative Council

Offered: 3/3/82
Referred: Finance

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 159 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - SECOND SESSION

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26 must be approved by the director of insurance and must provide that the
27 deductible amount be paid by the insurer to the employee on behalf of
28 the employer. After payment of the deductible by the insurer, the
29 insurer may recover the deductible amount from the employer. The fail-

1 ure of an employer to reimburse an insurer for the deductible amount
2 does not relieve the insurer from any other obligation it may have under
3 the policy of insurance. An insurer is not required to apply for a
4 deviation under AS 21.39.070 in order to issue a policy under this
5 subsection. This subsection does not apply to a policy of excess insur-
6 ance purchased by a self-insurer.

7 * Sec. 3. AS 23.30.040(b) is amended to read:

8 (b) If an employee suffers a compensable injury that results in
9 temporary total disability, temporary partial disability, permanent
10 partial disability, or permanent total disability, the employer or
11 insurance carrier shall contribute to the second injury fund. The
12 contribution shall be made by one year from the date of the injury or on
13 termination of the employee's claim, whichever is sooner. If the claim
14 is not terminated within one year, subsequent contributions shall be
15 made yearly until the termination of the employee's claim. The amount
16 of the contribution is the product of the compensation to which the
17 employee is entitled for temporary total disability, temporary partial
18 disability, permanent partial disability, permanent total disability, or
19 for rehabilitation under AS 20.30.041 [AS 23.30.191] and the applicable
20 contribution rate set out in column A of this subsection. Payment need
21 not be made to the second injury fund if the total contribution under
22 this section is less than \$20. By December 15 of each year the commis-
23 sioner shall determine and make available to the public the applicable
24 contribution rate for the following calendar year according to the
25 reserve rate of the second injury fund in column B of this subsection:

26	Column A	Column B	
27	Second Injury Fund	Reserve Rate	
28	Contribution Rate	At Least	But Less Than
29	(Percent)	(Percent)	(Percent)

1	6	0	50
2	5	50	75
3	4	75	100
4	3	100	125
5	2	125	150
6	1	150	175
7	0	175	

8 * Sec. 4. AS 23.30.040(e) is repealed and reenacted to read:

9 (e) The board may authorize payment from the second injury fund of

10 (1) up to \$200 per month for maintenance to an employee being
 11 rehabilitated under AS 23.30.041 who suffers an extreme financial hard-
 12 ship;

13 (2) vocational rehabilitation expenses for books, tuition,
 14 tools and supplies.

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

16 Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The board
 17 shall select and employ a rehabilitation administrator and may authorize
 18 the rehabilitation administrator to select and employ additional rehabi-
 19 litation staff. The rehabilitation administrator is in the partially
 20 exempt service under AS 39.25.120.

21 (b) The rehabilitation administrator shall implement the provi-
 22 sions of this section, study the issue of rehabilitation, both physical
 23 and vocational, on a continuing basis, and shall investigate and main-
 24 tain a directory of qualified rehabilitation facilities, agencies, and
 25 providers, both public and private.

26 (c) When an employee suffers an injury covered by this chapter
 27 that precludes return to suitable gainful employment, the employer shall
 28 at its own expense promptly provide necessary and appropriate rehabili-
 29 tation services and may make cooperative arrangements with insurance

1 carriers, private organizations and institutions, or state and federal
2 agencies. If rehabilitation services are not voluntarily offered, as
3 prescribed by regulations of the board, the rehabilitation administra-
4 tor, if he considers the services necessary and appropriate, may retain
5 a rehabilitation provider at the expense of the employer or carrier to
6 evaluate an employee and develop a rehabilitation plan.

7 (d) Vocational rehabilitation services may not exceed 37 weeks,
8 except that vocational rehabilitation services may be extended an addi-
9 tional 37 weeks if the rehabilitation administrator determines that
10 special circumstances exist. Nothing in this subsection prohibits an
11 employer or carrier from providing extended vocational rehabilitation
12 services on a voluntary basis. If rehabilitation requires residence
13 away from the employee's customary residence, reasonable cost of board,
14 lodging, and travel shall be paid by the employer. Temporary disability
15 under AS 23.30.185 or AS 23.30.200 shall be paid throughout the rehabi-
16 litation process.

17 (e) The employer and employee may agree on a vocational rehabili-
18 tation plan. If the employer and employee fail to agree on a vocational
19 rehabilitation plan, any of the parties may file a plan for approval
20 with the rehabilitation administrator. The rehabilitation administrator
21 shall approve or modify and approve a plan within 14 days after the plan
22 is filed.

23 (f) Within 10 days of the rehabilitation administrator's decision
24 to approve or modify and approve a rehabilitation plan any party may
25 seek review of the decision by requesting a hearing in accordance with
26 AS 23.30.110. A decision by the rehabilitation administrator is valid
27 unless a showing of clear error is made.

28 (g) Refusal by an injured employee to participate in an evaluation
29 or a rehabilitation plan approved by the rehabilitation administrator

1 results in forfeiture of disability compensation for the period the
2 refusal continues. However, if an employee begins participation in an
3 evaluation or rehabilitation plan within two months from the date of
4 refusal, and successfully completes the evaluation or rehabilitation
5 plan and becomes employed for a period of 30 consecutive business days
6 following the completion of the rehabilitation program, the employee
7 shall receive a lump-sum payment of 25 percent of the compensation
8 forfeited by him. The lump-sum payment is available only once to an
9 employee refusing rehabilitation. The rehabilitation administrator may
10 find that an employee refuses to participate in an evaluation or rehab-
11 ilitation plan if the employee fails to cooperate with the rehabilita-
12 tion provider.

13 * Sec. 6. AS 23.30.045(a) is amended to read:

14 (a) An employer is liable for and shall secure the payment to his
15 employees of the compensation payable under AS 23.30.041, 23.30.050,
16 23.30.095, 23.30.145, and 23.30.180 - 23.30.215. If the employer is a
17 subcontractor, the contractor is liable for and shall secure the payment
18 of the compensation to employees of the subcontractor unless the subcon-
19 tractor secures the payment.

20 * Sec. 7. AS 23.30.045(c) is amended to read:

21 (c) For a person eligible for vocational rehabilitation service
22 under this chapter or AS 23.15.080 [AND] who is placed with an employer
23 for service [WITHOUT WAGES] at the request of the board or the division
24 [OFFICE] of vocational rehabilitation to provide [GIVE HIM] on the job
25 training, work readiness, [OR] work therapy experience [,] or work
26 sampling, the liability set out in (a) of this section applies to the
27 state rather than to the employer.

28 * Sec. 8. AS 23.30.080 is amended by adding a new subsection to read:

29 (d) If an employer fails to insure or provide security as required

1 by AS 23.30.075, the board may issue a stop order prohibiting the use of
2 employee labor by the employer until the employer insures or provides
3 security as required by AS 23.30.075. The failure of an employer to
4 file evidence of compliance as required by AS 23.30.085 creates a rebut-
5 able presumption that the employer has failed to insure or provide
6 security as required by AS 23.30.075. If an employer fails to comply
7 with a stop order issued under this section, the board shall assess a
8 civil penalty of \$1,000 per day. The employer may not obtain a public
9 contract with the state or a political subdivision of the state for
10 three years following the violation of the stop order.

11 * Sec. 9. AS 23.30.095(c) is amended to read:

12 (c) No claim for medical or surgical treatment is valid and en-
13 forceable as against the employer unless, within 20 [TWENTY] days follow-
14 ing the first treatment and following the time set by the board for
15 notice of subsequent treatments, the physician giving the treatment or
16 the employee receiving it furnishes to the employer and the board notice
17 of the injury and treatment, preferably on a form prescribed by the
18 board. The board shall [MAY], however, excuse the failure to furnish
19 notice within 20 days when it finds it to be in the interest of justice
20 to do so, and it may, upon application by a party in interest, make an
21 award for the reasonable value of the medical or surgical treatment so
22 obtained by the employee.

23 * Sec. 10. AS 23.30.095(e) is amended to read:

24 (e) The employee shall, after an injury, at reasonable times
25 during the continuance of his disability if requested by his employer
26 or, when ordered by the board, submit himself to an examination by a
27 physician or surgeon authorized to practice medicine under the laws of
28 the state in which the employee may be found, furnished and paid for by
29 the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR

1 BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact
2 relative to the injury or claim communicated to or otherwise learned by
3 a physician or surgeon who may have attended or examined the employee,
4 or who may have been present at an examination is privileged, either in
5 the hearings provided for in this chapter or an action to recover
6 damages against an employer who is subject to the compensation provi-
7 sions of this chapter. If an employee refuses to submit himself to any
8 examination provided for in this section [HEREIN], his rights to compen-
9 sation shall be suspended until the obstruction or refusal ceases, and
10 his compensation during the period of suspension may, in the discretion
11 of the board or the court determining an action brought for the recovery
12 of damages under this chapter [HEREUNDER], be forfeited. The board in
13 any case of death may require an autopsy at the expense of the party
14 requesting the autopsy. No autopsy may be held without notice first
15 being given to the widow or widower or next of kin if they reside in the
16 state or their whereabouts can be reasonably ascertained, of the time
17 and place of the autopsy and reasonable time and opportunity given the
18 widow or widower or next of kin to have a representative present to
19 witness the autopsy. If no adequate notice is given, the findings from
20 the autopsy may be suppressed on motion made to the board or to the
21 superior court, as the case may be.

22 * Sec. 11. AS 23.30.095 is amended by adding a new section to read:

23 (j) The board shall adopt and use a schedule for determining the
24 existence and degree of permanent impairment consistent with the Ameri-
25 can Medical Association Guide to the Evaluation of Permanent Impairment.

26 * Sec. 12. AS 23.30 is amended by adding a new section to article 3 to
27 read:

28 AS 23.30.097. RELEASE OF INFORMATION. Upon request by the rehab-
29 ilitation administrator the employee shall provide written authority to

1 the rehabilitation administrator to obtain medical and rehabilitation
2 information relative to the employee's injury.

3 * Sec. 13. AS 23.30.100(d)(2) is amended to read:

4 (2) if the board excuses the failure on the ground that for
5 some satisfactory reason notice could not be given; however, if delay
6 in giving notice is excused by the board, the burden of proof of the
7 validity of the claim shifts to the employee notwithstanding the pro-
8 visions of AS 23.30.120;

9 * Sec. 14. AS 23.30.110(c) is amended to read:

10 (c) The board shall make the investigation which it considers
11 necessary with [IN] respect to [OF] the claim, and upon application of
12 an interested party shall provide an opportunity for [ORDER] a hearing
13 on it. If a hearing on a claim is ordered, the board shall give the
14 claimant and other interested parties at least 10 days' notice of the
15 hearing, served personally upon the claimant and other interested parties
16 or sent by registered mail, and shall, within 30 [20] days after the
17 hearing record closes [IS HAD], by order, reject the claim or make an
18 award in respect to it. If a hearing is continued by the board, addi-
19 tional notice under this subsection is not required. [IF NO HEARING IS
20 ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS
21 SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN
22 RESPECT TO IT.]

23 * Sec. 15. AS 23.30.120(3) is amended to read:

24 (3) the injury was not proximately caused by the intoxication
25 of the injured employee or occasioned solely by the [INTOXICATION OF THE
26 INJURED] employee being under the influence of drugs unless the drugs
27 were taken as prescribed by the employee's physician;

28 * Sec. 16. AS 23.30 is amended by adding a new section to read:

29 Sec. 23.30.122. CREDIBILITY OF WITNESSES. The board has the sole

1 power to determine the credibility of a witness. A finding by the board
2 concerning the weight to be accorded a witness's testimony, including
3 medical testimony and reports, is conclusive even if the evidence is
4 conflicting or susceptible to contrary conclusions. The findings of the
5 board are subject to the same standard of review as a jury's finding in
6 a civil action.

7 * Sec. 17. AS 23.30.155(j) is amended to read:

8 (j) If an employer has made advance payments or overpayments of
9 compensation, he is entitled to be reimbursed, after approval by the
10 board, out of any unpaid installment or installments of compensation
11 due.

12 * Sec. 18. AS 23.30.175(a) is amended to read:

13 (a) The weekly rate of compensation for disability or death for a
14 recipient residing in Alaska may not exceed the percentage of the Alaska
15 average weekly wage in effect on the date of injury as determined by the
16 table contained in this subsection and initially may not be less than
17 \$110 [\$65] a week. However, if the board determines that the employee's
18 spendable [AVERAGE] weekly wages are less than \$110 [\$65] a week as
19 computed under AS 23.30.220, it shall issue an order decreasing the
20 weekly rate of compensation to a rate equal to the employee's spendable
21 [AVERAGE] weekly wages, and payments made earlier in excess of the
22 decreased rate shall be deducted from the unpaid compensation in the
23 manner the board determines. In any case, the employer shall pay timely
24 compensation.

25	On	The Rate Shall Be
26	July 1, 1975	80 percent of the Alaska
27		average weekly wage
28	January 1, 1976	100 percent of the Alaska
29		average weekly wage

1 January 1, 1977 133.3 percent of the Alaska
2 average weekly wage
3 January 1, 1979 166.6 percent of the Alaska,
4 average weekly wage
5 January 1, 1981 200 percent of the Alaska
6 average weekly wage

7 * Sec. 19. AS 23.30.175(b) is repealed and reenacted to read:

8 (b) After June 30 and before December 1 of each year, the commis-
9 sioner shall adopt and publish the average weekly wage for each juris-
10 diction for the preceding calendar year as published by the United
11 States Secretary of Labor for the purposes of unemployment insurance.
12 In determining the rate of compensation the commissioner shall use the
13 average weekly wage figure for each jurisdiction, including Alaska, for
14 which the Secretary of Labor computes an average weekly wage. These
15 figures are the applicable average weekly wages for those jurisdictions
16 for the following calendar year.

17 * Sec. 20. AS 23.30.175(c) is repealed and reenacted to read:

18 (c) The following rules apply to recipients who do not reside in
19 Alaska:

20 (1) The weekly rate of compensation shall be calculated by
21 multiplying the recipient's weekly compensation rate calculated in
22 accordance with AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.-
23 215 times the ratio of the average weekly wage of the jurisdiction in
24 which the recipient resides to the average weekly wage of Alaska. The
25 ratio is based on the average weekly wages in effect when the recipient
26 leaves Alaska and shall be adjusted annually upon publication of the
27 average weekly wages for all jurisdictions.

28 (2) The calculation required by this subsection does not
29 apply if the recipient is absent from Alaska for medical or rehabilita-

1 tion services not reasonably available in Alaska.

2 (3) If the spendable weekly wage of the recipient and the
3 resulting compensation rate is determined under AS 23.30.220(2), the
4 calculation required by this subsection applies to only those gross
5 earnings earned in Alaska.

6 (4) Application of this subsection may not result in a reduc-
7 tion of the weekly compensation rate to less than \$110 a week except as
8 provided in (a) of this section.

9 * Sec. 21. AS 23.30.175(d) is repealed and reenacted to read:

10 (d) In a jurisdiction for which no average weekly wage is computed
11 by the United States Secretary of Labor for the purposes of unemployment
12 insurance, the average weekly wage shall be as determined by the commis-
13 sioner.

14 * Sec. 22. AS 23.30.180 is amended to read:

15 Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total
16 disability adjudged to be permanent 80 [66 2/3] percent of the injured
17 employee's spendable [AVERAGE] weekly wages shall be paid to the
18 employee during the continuance of the total disability. Loss of both
19 hands, or both arms, or both feet, or both legs, or both eyes, or of any
20 two of them, in the absence of conclusive proof to the contrary, consti-
21 tutes permanent total disability. In all other cases permanent total
22 disability is determined in accordance with the facts.

23 * Sec. 23. AS 23.30.185 is amended to read:

24 Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In
25 case of disability total in character but temporary in quality, 80 [66
26 2/3] percent of the injured employee's spendable [AVERAGE] weekly wages
27 shall be paid to the employee during the continuance of the disability.

28 * Sec. 24. AS 23.30.190 is amended to read:

29 Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY.

1 (a) In case of disability partial in character but permanent in quality
2 the compensation is 80 [66 2/3] percent of the injured employee's
3 spendable [AVERAGE] weekly wages in addition to compensation for tempor-
4 ary total disability or temporary partial disability paid in accordance
5 with AS 23.30.185 or 23.30.200, respectively, and shall be paid to the
6 employee as follows:

7 (1) arm lost, 280 weeks compensation, not to exceed \$59,000
8 [\$43,680];

9 (2) leg lost, 248 weeks compensation, not to exceed \$54,400
10 [\$40,320];

11 (3) hand lost, 212 weeks compensation, not to exceed \$45,400
12 [\$33,600];

13 (4) foot lost, 173 weeks compensation, not to exceed \$39,700
14 [\$28,700];

15 (5) eye lost, 140 weeks compensation, not to exceed \$30,200
16 [\$22,400];

17 (6) thumb lost, 51 weeks compensation, not to exceed \$14,000
18 [\$10,400];

19 (7) first finger lost, 28 weeks compensation, not to exceed
20 \$8,700 [\$6,440];

21 (8) great toe lost, 26 weeks compensation, not to exceed
22 \$7,200 [\$5,320];

23 (9) second finger lost, 18 weeks compensation, not to exceed
24 \$5,700 [\$4,200]; third finger lost, 18 weeks compensation, not to exceed
25 \$4,700 [\$3,500];

26 (10) toe other than great toe lost, eight weeks compensation,
27 not to exceed \$3,000 [\$2,240];

28 (11) fourth finger lost, seven weeks compensation, not to
29 exceed \$2,800 [\$2,100];

1 (12) loss of hearing of one ear, 52 weeks compensation, not
2 exceeding \$9,800 [\$7,280]; loss of hearing of both ears, 200 weeks
3 compensation, not to exceed \$37,800 [\$28,000];

4 (13) compensation for loss of more than one phalange of a
5 digit shall be the same as for loss of the entire digit; compensation
6 for loss of the first phalange is one-half of the compensation for loss
7 of the entire digit;

8 (14) amputation between the elbow and the wrist is considered
9 equivalent to the loss of an arm, and amputation between the knee and
10 ankle is considered equivalent to the loss of a leg;

11 (15) compensation for loss of binocular vision or for 80 per-
12 cent or more of the vision of an eye is the same as for loss of the eye;

13 (16) compensation for loss of two or more digits, or one or
14 more phalanges of two or more digits of a hand or foot may be propor-
15 tioned to the resulting loss of use of the injured hand or foot, but may
16 not exceed the compensation for loss of a hand or foot;

17 (17) compensation for permanent total loss of use of a member
18 is the same as for loss of the member;

19 (18) compensation for permanent partial loss or loss of use of
20 a member may be for proportionate loss or loss of use of the member;

21 (19) in addition to other allowable compensation, the board
22 shall award proper and equitable compensation up to \$10,000 for

23 (A) serious disfigurement of face, head and, when such
24 disfigurement is likely to handicap the employee in securing or
25 holding employment, for serious disfigurement of neck or limbs
26 normally exposed, or

27 (B) partial or total loss of or loss of use of a part or
28 function of the body not otherwise provided for under this section;

29 (20) in all other cases in this class of disability the compen-

1 sation is 80 [66 2/3] percent of the difference between his spendable
2 [AVERAGE] weekly wages and his wage-earning capacity after the injury in
3 the same employment or otherwise, payable during the continuance of the
4 partial disability, but subject to modification [RECONSIDERATION OF THE
5 DEGREE OF THE IMPAIRMENT] by the board on its own motion or upon appli-
6 cation of a party in interest; whenever the board determines that it is
7 in the interest of justice, the liability of the employer for compensa-
8 tion, or any part of it as determined by the board, may be discharged by
9 the payment of a lump sum;

10 (21) in a case in which there is a loss of, or loss of use of
11 more than one member or parts of more than one member set out in (1) -
12 (18) of this section, not amounting to permanent total disability, the
13 award of compensation is for the loss of, or loss of use of, each member
14 or part of the member, which awards shall run consecutively, except that
15 where the injury affects only two or more digits of the same hand or
16 foot, (16) of this section applies.

17 (b) Total compensation paid under (a)(20) of this section may not
18 exceed \$75,000 [\$60,000].

19 * Sec. 25. AS 23.30.200 is amended to read:

20 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of tempor-
21 ary partial disability resulting in decrease of earning capacity the
22 compensation shall be 80 [66 2/3] percent of the difference between the
23 injured employee's spendable [AVERAGE] weekly wages before the injury
24 and his wage earning capacity after the injury in the same or another
25 employment, to be paid during the continuance of the disability, but not
26 to be paid for more than five years.

27 * Sec. 26. AS 23.30.210 is amended to read:

28 Sec. 23.30.210. DETERMINATION OF WAGE-EARNING CAPACITY. In a
29 case of partial disability under AS 23.30.190(20) or 23.30.200 the

1 wage-earning capacity of an injured employee is determined by his actual
2 spendable weekly wage [EARNINGS] if the actual spendable weekly wage
3 [EARNINGS] fairly and reasonably represent his wage-earning capacity.
4 If the employee has no actual spendable weekly wage [EARNINGS] or his
5 actual spendable weekly wage does [EARNINGS DO] not fairly and reasonably
6 represent his wage-earning capacity, the board may, in the interest of
7 justice, fix the wage-earning capacity which is reasonable, having due
8 regard to the nature of his injury, the degree of physical impairment,
9 his usual employment, and any other factors or circumstances in the case
10 which may affect his capacity to earn wages in his disabled condition,
11 including the effect of disability as it may naturally extend into the
12 future.

13 * Sec. 27. AS 23.30.215(a) is amended to read:

14 (a) If the injury causes death, the compensation is known as a
15 death benefit and is payable in the following amounts to or for the
16 benefit of the following persons:

17 (1) reasonable and necessary funeral expenses not exceeding
18 \$2,500 [\$1,000];

19 (2) if there is a widow or widower or a child or children of
20 the deceased, the following percentages of the spendable [AVERAGE]
21 weekly wages of the deceased:

22 (A) 80 [66 2/3] percent for the widow or widower with no
23 children;

24 (B) 40 [33 1/3] percent for the widow or widower with
25 one child and 40 [33 1/3] percent for the child;

26 (C) 25 [20] percent for the widow or widower with two or
27 more children and 55 [46 2/3] percent divided equally among the
28 children;

29 (D) repealed;

1 (E) 80 [66 2/3] percent for an only child when there is
2 no widow or widower;

3 (F) repealed;

4 (G) 80 [66 2/3] percent, divided equally, if there are
5 two or more children and no widow or widower;

6 (3) if the widow or widower remarries, she or he is entitled
7 to be paid in one sum an amount equal to the compensation to which the
8 widow or widower would otherwise be entitled in the two years commencing
9 on the date of remarriage as full and final settlement of all sums due
10 the widow or widower;

11 (4) if there is no widow or widower or child or children,
12 then for the support of father, mother, grandchildren, brothers and
13 sisters, if dependent upon the deceased at the time of injury, 42 [35]
14 percent of the spendable [AVERAGE] weekly wage of the deceased to such
15 beneficiaries, share and share alike, not to exceed \$20,000 in the
16 aggregate.

17 * Sec. 28. AS 23.30.215(b) is amended to read:

18 (b) In computing death benefits, the spendable [AVERAGE] weekly
19 wage of the deceased shall be computed under AS 23.30.220 and shall be
20 paid in accordance with AS 23.30.155 and subject to the weekly maximum
21 limitation in the aggregate as provided in AS 23.30.175, but the total
22 weekly compensation may not be less than \$75 [\$45] for a widow or widower
23 nor less than \$25 [\$15] weekly to a child or \$50 [\$30] for children.

24 * Sec. 29. AS 23.30.220 is repealed and reenacted to read:

25 Sec. 23.30.220. DETERMINATION OF SPENDABLE WEEKLY WAGE. The
26 spendable weekly wage of the injured employee at the time of the injury
27 is the basis for computing compensation. It is the employee's gross
28 weekly earnings minus payroll tax deductions. The gross weekly earnings
29 shall be calculated as follows:

1 (1) If at the time of the injury the employee has been in the
2 gainful employ of the employer for the full reporting quarter immediately
3 before the time of injury, the gross weekly earnings are computed by
4 dividing by 13 the gross earnings the employee earned in the employ of
5 the employer in that reporting quarter.

6 (2) If at the time of the injury the employee has not been in
7 the employ of the employer for the full reporting quarter immediately
8 before the time of injury, the gross weekly earnings are computed by
9 dividing by 100 the gross earnings of the employee in the two calendar
10 years immediately preceding the injury.

11 (3) If the board determines that the gross weekly earnings at
12 the time of the injury cannot be fairly calculated under (1) or (2) of
13 this section, or cannot otherwise be ascertained without undue hardship
14 to the employee, the gross weekly earnings for calculating compensation
15 are the usual gross earnings for similar service rendered by paid
16 employees under similar circumstances as determined by the board.

17 (4) If an employee when injured is a minor or an apprentice,
18 or a trainee, as determined by the board, whose wages under normal
19 conditions would increase during the period of disability, the projected
20 increase may be considered by the board in computing his gross weekly
21 earnings.

22 (5) If the employee is injured while performing his duties as
23 a volunteer ambulance attendant, policeman, or fireman, the gross weekly
24 earnings for calculating compensation shall be the minimum gross weekly
25 earnings paid a full-time ambulance attendant, policeman, or fireman
26 employed in the political subdivision where the injury occurred, or, if
27 the political subdivision has no full-time ambulance attendants, police-
28 men, or firemen, at a reasonable figure previously set by the political
29 subdivision to make this determination but in no case may the gross

1 weekly earnings for calculating compensation be less than the minimum
2 wage computed on the basis of 40 hours work per week.

3 * Sec. 30. AS 23.30 is amended by adding a new section to read:

4 Sec. 23.30.227. EFFECT OF UNEMPLOYMENT BENEFITS. Compensation is
5 not payable to an employee under AS 23.30.180 or 23.30.185 for a week in
6 which the employee receives unemployment benefits.

7 * Sec. 31. AS 23.30.235 is repealed and reenacted to read:

8 Sec. 23.30.235. CASES IN WHICH NO COMPENSATION IS PAYABLE. Compens-
9 sation under this chapter may not be allowed for an injury

10 (1) proximately caused by the employee's wilful intent to
11 injure or kill himself or another;

12 (2) proximately caused by intoxication of the injured employee
13 or occasioned solely by the employee being under the influence of drugs
14 unless the drugs were taken as prescribed by the employee's physician.

15 * Sec. 32. AS 23.30.250 is amended to read:

16 Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who wil-
17 fully makes a false or misleading statement or representation for the
18 purpose of obtaining or denying a benefit or payment under this chapter
19 is guilty of theft by deception as defined in AS 11.46.180 and is pun-
20 ishable as provided in 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON
21 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRI-
22 SONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

23 * Sec. 33. AS 23.30.255(a) is amended to read:

24 (a) An employer required to secure the payment of compensation
25 under this chapter who fails to do so is guilty of a class B felony if
26 the amount involved exceeds \$25,000 or a class C felony if the amount
27 involved is \$25,000 or less [MISDEMEANOR AND UPON CONVICTION IS PUNISH-
28 ABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR NOT MORE
29 THAN ONE YEAR, OR BY BOTH]. If the employer is a corporation, its

1 president, secretary, and treasurer are also severally liable to the
2 fine or imprisonment imposed [PROVIDED IN THIS SECTION] for the failure
3 of the corporation to secure the payment of compensation. The presi-
4 dent, secretary, and treasurer are severally personally liable, jointly
5 with the corporation, for the compensation or other benefit which accrues
6 under this chapter in respect to an injury which happens to an employee
7 of the corporation while it has failed to secure the payment of compen-
8 sation as required by AS 23.30.075.

9 * Sec. 34. AS 23.30.255(b) is amended to read:

10 (b) An employer who knowingly transfers, sells, encumbers, assigns,
11 or in any manner disposes of, conceals, secretes, or destroys any of his
12 property after one of his employees has been injured within the scope of
13 this chapter, with intent to avoid the payment of compensation under
14 this chapter to the employee or his dependents, is guilty of a class B
15 felony if the amount involved exceeds \$25,000 or a class C felony if
16 the amount involved is \$25,000 or less [MISDEMEANOR, AND UPON CONVICTION
17 IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR
18 NOT MORE THAN ONE YEAR, OR BY BOTH]. If the employer is a corporation,
19 its president, secretary, and treasurer are also severally liable to the
20 penalty of imprisonment as well as jointly liable with the corporation
21 for the fine.

22 * Sec. 35. AS 23.30.265 is amended by adding new paragraphs to read:

23 (29) "arising out of and in the course of employment" includes
24 employer-required or supplied travel to and from a remote job site;
25 activities performed at the direction or under the control of the
26 employer; and employer-sanctioned activities at employer-provided facili-
27 ties; but excludes activities of a personal nature away from employer-
28 provided facilities;

29 (30) "drugs" means a controlled substance as defined by law;

1 (31) "gross earnings" means recurring payments, by an employer
2 to an employee for employment before any authorized or lawfully required
3 deduction or withholding of money by the employer, including compensa-
4 tion that is deferred at the option of the employee, and excluding
5 irregular bonuses, reimbursement of expenses, expense allowances, and
6 any benefit or payment to the employee that is not taxable to the
7 employee during the pay period; the value of room and board to the
8 employee may be considered in determining gross earnings for those
9 employees with gross weekly earnings that are less than the Alaska
10 average weekly wage at the time of injury;

11 (32) "gross weekly earnings" means gross weekly earnings as
12 calculated under AS 23.30.220;

13 (33) "payroll taxes" means (A) the amount that would be with-
14 held under withholding tables in effect on the January 1 preceding the
15 injury under the Internal Revenue Code of 1954 (as amended) and regula-
16 tions issued under the code, as though the employee had claimed the
17 maximum number of dependents for actual dependency, blindness, and old
18 age to which the employee is entitled on the date on which he is injured;
19 and (b) if the employer is subject to the Social Security Act of 1935 as
20 amended, the amount that would be deducted or withheld as of the Janu-
21 ary 1 preceding the injury under that act from the amount of earnings of
22 the employee at the time of the injury as if the earnings were earned at
23 the beginning of the calendar year in which he was injured and regardless
24 of whether the amount was actually withheld or the earnings were subject
25 to withholding; the commissioner shall annually prepare formulas that
26 shall be used to calculate an employee's spendable weekly wage on the
27 basis of his gross weekly earnings, number of dependents, marital status,
28 and payroll tax deductions;

29 (34) "reporting quarter" means one of the three-month periods

1 (January through March, April through June, July through September,
2 October through December) used to report employee wages to the Internal
3 Revenue Service;

4 (35) "suitable gainful employment" means employment that is
5 reasonably attainable in light of an individual's age, education, pre-
6 vious occupation, and injury, and that offers an opportunity to restore
7 the individual as soon as practical to a remunerative occupation and as
8 nearly as possible to his gross weekly earnings as determined at the
9 time of injury.

10 * Sec. 36. AS 39.25.120 is amended by adding a new paragraph to read:

11 (20) the rehabilitation administrator of the Workers' Compensa-
12 tion Board.

13 * Sec. 37. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), 23.30.-
14 191, and 23.30.265(20) are repealed.

15 * Sec. 38. The board shall publish AS 23.30.235 and AS 23.30.250 as
16 enacted in secs. 31 and 32 of this Act as part of a document describing the
17 employee's rights and obligations under the Alaska Workers' Compensation Act.
18 The publication shall be mailed or otherwise made available to an injured
19 worker upon notice of an injury.

20 * Sec. 39. Sections 5, 18 - 29, 31, and 35 of this Act apply only to
21 injuries sustained after the effective date of this Act.

22 * Sec. 40. This Act takes effect July 1, 1982.
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A M E N D M E N T

Offered in the HOUSE

By Martin and Rogers

TO: CSHB 159(L&C)

Page 2, after line 6: insert the following new material:

* Sec. 3. AS 23.30.040(a) is repealed and reenacted to read:

(a) There is created a second injury fund, administered by the commissioner. Money in the second injury fund may be used only for

(1) payments for the benefit of persons entitled to benefits from the second injury fund under this chapter as ordered or awarded by the board; and

(2) the cost of the rehabilitation services administered under AS 23.30.041.

Renumber subsequent bill sections.

- Section 1. This section sets forth the legislative intent of AS 23.30.041 as found in section 5.
- Section 2. This section allows for the issuance of an insurance policy that provides for a deductible amount to be paid by the employer. The policy must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. The deductible may be recovered from the employer.
- Section 3. This section forgives contributions by the employer or insurance carrier to the second injury fund in those cases in which the total contribution is less than \$20. Contributions of less than \$20 result in administrative costs by the carrier and the Division of Workers' Compensation which offset any positive contribution to the second injury fund.
- Section 4. This section deletes language now provided in AS 23.30.041 found in section 5. Additionally, standards are established for the award of an additional \$200 per month for maintenance from the second injury fund. A \$10,000 maximum payment for books, tuition, tools, and supplies has been eliminated because reports indicated expectation was created by its inclusion.
- Section 5. This section provides for the administration of rehabilitation and establishes fundamental duties and obligations of the parties. Primary responsibility to provide necessary and appropriate rehabilitation services is the employer's. The Board is charged with adopting regulations which will specify those cases when rehabilitation services are warranted. In the event the employer, or carrier, does not voluntarily offer the rehabilitation services, the Rehabilitation Administrator may retain a rehabilitation provider.
- The Rehabilitation Administrator is a new partially exempt position and will be selected and employed by the Board. The intent is to create a strong impartial referee to resolve disputes and provide information prior to entering the rehabilitation process. The administrator's decision may be appealed to the Board by requesting a hearing.
- Vocational rehabilitation services are limited to 37 weeks, with an additional 37 weeks allowed if special circumstances exist. The intent is to quickly return an injured worker to gainful employment. Most direct return to work programs and on the job training programs can be accomplished in less than the initial 37 weeks. Temporary total or temporary partial disability compensation shall be paid to an injured worker during the rehabilitation process.
- Section 6. This section adds language necessary because of the addition of AS 23.30.041 found in section 5.
- Section 7. This section allows placement of disabled employees who are being rehabilitated for gainful employment into work situations where the employer is willing to pay some wages to the trainee but is not willing to accept the risk of new injury to the handicapped person. The statute presently is limited to situations in which the trainee is not being paid at all. This section also permits the Board to place eligible persons in rehabilitation programs with an employer in the event a request is not made through the Division of Vocational Rehabilitation in the Department of Education.
- Section 8. This section deals with the employer's failure to insure and provides authority for the issuance of a stop order if an employer fails to file evidence of insurance or obtain a certificate of self-insurance. It also provides for a civil penalty of \$1,000 a day for failure to comply with a stop order, and the employer may

subdivision of it for three years following the violation.

- Section 9. This section provides authority for the Board to establish time limits for the submission of medical reports by physicians treating injured workers.
- Section 10. This section deletes language which gives the right to the injured worker to have his physician present, paid for by the employer, at an examination requested by the employer or ordered by the Board.
- Section 11. This section directs the Board to adopt and use a schedule determining the existence and degree of permanent impairment consistent with the American Medical Association's Guide to the Evaluation of Permanent Impairment.
- Section 12. This section specifically provides for the release of medical and rehabilitation information to the Rehabilitation Administrator. This section does not limit the obligation of the parties to provide relevant medical and rehabilitation information to other parties upon request.
- Section 13. This section removes the "presumption of compensability" contained in AS 23.30.120 if the employee fails to provide notice of the injury to the employer within 30 days of its occurrence.
- Section 14. This section provides realistic time frames in the Board hearing process and rids the statute of Board authorization to rule on a claim without benefit of the parties to be heard.
- Section 15. This section reflects changes necessary because of amendments to AS 23.30.235 found in section 31.
- Section 16. This section clarifies and emphasizes the role of the Board in determining the credibility of witnesses and the weight to be accorded medical testimony and reports. The Board's findings are conclusive, even if the evidence is conflicting or susceptible of contrary conclusions. It is the intent of this section to restore to the Board the decision making power granted by the Legislature when it enacted the Alaska Workers' Compensation Act. Credibility is a difficult area to articulate objective standards. Such factors as demeanor, recollection, bias, and motive are best determined by the fact finding agency and not the reviewing court. Because the Board has a certain amount of expertise, particularly in the area of medicine, it has the ability to assign weight to the testimony or reports of the medical community.
- Section 17. This section allows an employer who has advanced or overpaid compensation to be recompensed out of any unpaid installment or installments of compensation. The employer must obtain prior approval by the Board.
- Section 18. This section increases the minimum compensation from \$65 to \$110 per week and reflects changes necessary because of the reenactment of AS 23.30.220 found in section 29 which makes spendable weekly wage of an employee the basis of compensation.
- Section 19. This section changes the method by which the average weekly wage is determined in all jurisdictions for purposes of computing compensation and provides for a consistent and equitable means to adjust compensation rates for claims being paid to out-of-state recipients.
- Section 20. This section clarifies the rules under which compensation rates are adjusted for recipients not residing in Alaska consistent with legislative intent and regulations, insures adequate benefit levels for those recipients and provides for an annual adjustment in the compensation rate commensurate with changes in average weekly wages.
- Section 21. This section authorizes the Commissioner of Labor to determine the average weekly wage in jurisdictions in which no average weekly wage is computed by the Secretary of Labor.

consistent with the repeal and reenactment of AS 23.30.220 found in section 29 which makes the employees spendable weekly wage the basis for determining compensation.

Eighty percent of the employee's spendable weekly wage minimizes the possibility of an employee receiving more in workers' compensation than his take home pay while working. The change is consistent with recommendation of the 1972 Report of the National Commission on State Workers' Compensation Law which states at page 19:

The decision fixing the proportion of lost wages to be replaced must balance incentives to employers to improve safety within incentives to the disabled to take full advantage of rehabilitation services and to return to work.

We recommend that cash benefits for [disability compensation] be at least two-thirds of the workers' gross weekly wage. The two-thirds formulation should be used only on a transitional basis until the State adopts a provision making payments at least 80 percent of the worker's spendable weekly earnings.

- Section 23. See comments to section 22.
- Section 24. See comments to section 22. Additionally, this section provides for inflationary increases in the maximums paid for "scheduled" and "unscheduled" permanent partial disabilities.
- Section 25. See comments to section 22.
- Section 26. This section reflects changes consistent with the repeal and reenactment of AS 23.30.220 found in section 29.
- Section 27. See comments to section 22. Additionally, this section provides for inflationary increases in funeral expenses on death claims. The current limit for reasonable and necessary funeral expenses are not adequate and result in a hardship to the family of the deceased or the employer for payment of the additional costs.
- Section 28. This section reflects changes consistent with the repeal and reenactment of AS 23.30.220 found in section 29. Additionally, the minimum weekly compensation for a widow or widower is increased from \$45 to \$75 per week.
- Section 29. This section adopts a new basis for computing compensation known as the "spendable weekly wage". The spendable weekly wage is the employees gross weekly earnings, minus payroll tax deductions, which are defined in section 35. The change is consistent with the 1972 report of the National Commission on State Worker's Compensation Laws.

It is an administratively feasible procedure which can simultaneously take into account the difference between gross and spendable earnings, the virtues of dependents' allowances and the impact of the progressive income tax. This procedure first determines the worker's gross earnings prior to disability (which must be determined under the present Act) and the number of his dependents. The gross earnings and dependency data are then inserted into a formula prepared and published by the Department of Labor to determine the worker's spendable earnings. Once spendable earnings are calculated, workers' compensation benefits for all sizes of families can be calculated as a fixed proportion of spendable weekly earnings. No further allowances for dependents for tax considerations are necessary or appropriate.

This section also adopts a new basis for determining the gross earnings of an injured worker. If the injured worker has been in the employ of the employer for the full reporting quarter

computed by dividing by thirteen the gross earnings of that reporting quarter. This allows for a more current basis for compensation for the portion of the work force that is "permanently employed". Utilizing a reporting quarter allows an easy method for the employer to provide wage information to the carrier which should allow compensation to be timely paid.

If an injured worker has not been in the employ of the employer for the full reporting quarter preceding the injury, his gross weekly earnings are computed by dividing by 100 the gross earnings of the employee in the two calendar years immediately preceding the injury. This formula provides a basis for computing compensation for the portion of the labor force which is not "permanently employed". Utilizing the preceding two years tends to eliminate the cyclical nature of many industries. Dividing by 100 instead of 104 tends to adjust previous years' earnings for inflation.

Section 30. This section clarifies the relationship between workers' compensation and unemployment benefits. Temporary total and permanent total disability compensation are not consistent with the eligibility of an injured worker to receive unemployment benefits, and accordingly, are not payable to an injured worker receiving unemployment benefits. This section does not affect the payment of temporary partial or permanent partial disability compensation to an employee who is receiving unemployment benefits.

Section 31. This section changes the instances when compensation is not payable to an injured employee. If the injury is proximately caused by the employee's willful intent to injure or kill himself or another, or by intoxication by the injured employee then compensation is not payable. Under the present act an employer must prove the injury was occasioned solely as a result of the employee's intoxication.

The employee is still aided by the presumption contained in AS 23.30.120 found in section 15 which presumes the injury was not proximately caused by the intoxication of the injured employee. The term proximately caused means legally caused, i.e., a substantial factor.

Section 32. This section provides penalties for persons who willfully make false or misleading statements for the purpose of obtaining or denying workers' compensation benefits.

Section 33. This section provides for criminal sanctions for the failure to secure the payment of workers' compensation.

Section 34. See comment to Section 33.

Section 35. This section provides for new definitions.

"Arising out of and in the course of employment" is limited to exclude activities of a personal nature away from employer provided facilities. The intent is to limit the scope of the "bunkhouse rule" or "remote site doctrine" which has evolved in workers' compensation law.

Specifically excluded from coverage are activities of a personal nature not sanctioned by the employer which occur away from employer provided facilities such as personal hunting trips, travel to and from a job site when employer provided housing at the site is available to the employee, travel to a banking facility when check-cashing facilities are available at the remote site, and similar incidents. Travel to and from a job site provided or required by the employer, recreational activities sanctioned by the employer or activities within the confines of or immediately surrounding the "bunkhouse" or premises, are not excluded from coverage.

"Gross earnings" includes payments before any authorized or lawfully required deduction such as credit union, dues check off, social security, federal withholding, or deferred compensation which is optional to the employee at the time of his injury. Specifically,

to those employees of government and non-profit corporations and associations which may elect to defer income from a particular pay period or pay periods but have the option of terminating the deferral of that income at any time during their employment. Excluded from gross earnings are irregular bonuses, reimbursement of expenses, expense allowances and any benefits not taxable to the employee during the pay period. "Any benefit not taxable to the employee during the pay period" would include the general items referred to as "fringe benefits" such as: payments providing for health, welfare, retirement, vacation or annual leave and other similar benefits received by the employee for which he is not taxed other than deferred compensation which is optional to the employee at the time of his injury.

The value of room and board may be considered in gross earnings only for those injured workers whose gross weekly earnings otherwise computed are less than the Alaska average weekly wage at the time of injury. The value of room and board may be included only to raise the gross weekly earnings up to the level of the Alaska average weekly wage. The value of room and board that would raise an employee's gross weekly earnings above the Alaska average weekly wage is excluded.

Payroll taxes are defined to exclude to the amount that would be withheld from an employee's gross weekly earnings under the Internal Revenue code as though he had claimed the maximum number of dependents per actual dependency, blindness, and old age. Also deducted is the amount of earnings subject to the Social Security Act irrespective of whether the employee may have paid the maximum Social Security for the year at the time the injury occurs. Employees of employers not subject to the Social Security Act are not subject to the payroll deduction for Social Security withholding.

"Suitable gainful employment" provides criteria for determining the need for, and the appropriateness of, rehabilitation or a particular rehabilitation plan.

- Section 36. This section designates the Rehabilitation Administrator as a partially exempt position.
- Section 37. This section repeals provisions that are unnecessary or inconsistent with proposed legislation.
- Section 38. This section requires the board to publish Section 31 and 32 of this Act as part of a document describing the employee's rights and obligations under the Alaska Worker's Compensation Act.
- Section 39. This section provides that sections 5, 18-29, 31, and 35 of the Act apply only to injuries sustained after the effective date of this Act.
- Section 40. This section provides that the Act takes effect July 1, 1982.

Introduced: 2/13/81
Referred: Labor & Commerce and
Finance

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (for
the Workers' Compensation Study
Commission)

1 IN THE HOUSE

2 HOUSE BILL NO. 159

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. The purpose of sec. 2 of this Act is to provide both protec-
10 tion for injured employees and flexibility for employers in making the
11 alternative of self-insurance available to those employers required under
12 AS 23.30 to provide workers' compensation insurance coverage for their
13 employees.

14 * Sec. 2. AS 21 is amended by adding a new chapter to read:

15 CHAPTER 62: WORKERS' COMPENSATION SELF-INSURANCE.

16 Sec. 21.62.010. SELF-INSURANCE. An employer or two or more
17 employers having a common management or two or more employers having a
18 common interest may elect to pay directly the compensation required in
19 AS 23.30 after providing satisfactory proof of financial ability to
20 make direct payments and receiving a self-insurance certificate from
21 the director.

22 Sec. 21.62.020. SELF-INSURANCE FUND. (a) A workers' compensa-
23 tion self-insurance group formed by two or more employers having a
24 common interest shall establish and keep a self-insurance fund with a
25 minimum balance to be determined by the director, but not less than
26 \$250,000. The director may adopt regulations to maintain the solvency
27 of the fund.

28 (b) The fund shall be administered by a board of trustees selected
29 by members of the common interest self-insurance group.

1 (c) A majority of the trustees of the fund must be members of the
2 self-insurance group.

3 (d) A trustee of a fund may not be an owner, officer, or employee
4 of the service company used by the common interest self-insurance group
5 which established the fund.

6 (e) The common interest self-insurance group shall adopt bylaws
7 governing the operation of the fund.

8 Sec. 21.62.030. APPLICATION. (a) An employer desiring to become
9 an individual self-insurer or two or more employers having common
10 management desiring to become a group self-insurer shall submit an
11 application to the division on a form prescribed by the director.

12 (b) The trustees of the fund of a common interest group desiring
13 to become a group self-insurer shall submit an application to the divi-
14 sion on a form prescribed by the director.

15 (c) An applicant for self-insurance shall answer all questions on
16 the application. The answers shall be sworn to and notarized. The
17 application shall be submitted at least 90 days before the proposed
18 effective date or renewal date of the self-insurance certificate.

19 Sec. 21.62.040. CONTENTS OF APPLICATION. An applicant for self-
20 insurance shall submit the following with the application for self-
21 insurance:

22 (1) evidence of working capital of an amount which estab-
23 lishes the financial strength and liquidity to pay normal compensation
24 claims promptly;

25 (2) the proposed amount of retention per loss and retention
26 in the aggregate;

27 (3) the proposed program of excess insurance coverage;

28 (4) proof that the applicant has ample facilities and compe-
29 tent personnel to service the self-insurance plan or a copy of a signed

1 service agreement with an approved service company to provide that
2 service;

3 (5) the location in this state where all records of self-
4 insured loss will be maintained;

5 (6) a description of any loss control or safety programs to
6 be used by the applicant;

7 (7) Any further evidence which the director may require to
8 establish the ability of the applicant to meet its obligations under
9 AS 23.30.

10 Sec. 21.62.050. DOCUMENTS REQUIRED OF INDIVIDUAL SELF-INSURER.

11 In addition to the information required under AS 21.62.040, an applica-
12 tion for individual self-insurance shall be accompanied by

13 (1) a financial statement not more than three months old at
14 the time of the application showing a net worth of not less than
15 \$500,000;

16 (2) an agreement to fully discharge by cash payment all
17 amounts required to be paid under AS 23.30.

18 Sec. 21.62.060. DOCUMENTS REQUIRED OF COMMON MANAGEMENT SELF-
19 INSURANCE GROUP. In addition to the information required under AS 21.-
20 62.040, an application for group self-insurance by a common management
21 group shall be accompanied by

22 (1) a financial statement not more than three months old at
23 the time of application for each member of the group showing a combined
24 net worth of all members of the group to be not less than \$500,000;

25 (2) an indemnity agreement jointly and severally binding
26 each member of the common management self-insurance group to fully
27 discharge by cash payment all amounts required to be paid under
28 AS 23.30.

29 Sec. 21.62.070. DOCUMENTS REQUIRED OF COMMON INTEREST SELF-

1 INSURANCE GROUP. In addition to the information required under AS 21.-
2 62.040, an application for group self-insurance by the trustees of the
3 fund of a common interest group shall be accompanied by

4 (1) a financial statement not more than three months old at
5 the time of the application for each member applying for coverage on
6 the inception date of the fund showing a combined net worth of all
7 members of the common interest self-insurance group of not less than
8 \$1,000,000;

9 (2) an indemnity agreement jointly and severally binding the
10 fund and each member of the common interest self-insurance group to
11 fully discharge by cash payment all amounts required to be paid under
12 AS 23.30;

13 (3) An individual application for each member of the common
14 interest self-insurance group applying for coverage under the fund;

15 (4) a set of bylaws or a trust agreement which shall govern
16 the operation of the fund;

17 (5) proof of the existence of the minimum balance in the
18 fund as required under AS 21.62.020(a);

19 (6) an estimate of all administrative expenses of the fund
20 for the period for which the self-insurance certificate is to be issued.

21 Sec. 21.62.080. REVIEW AND DECISION OF DIRECTOR. (a) The direc-
22 tor shall review the contents of an application for self-insurance and
23 determine whether the applicant has the financial ability to meet its
24 obligations under AS 23.30.

25 (b) The director shall determine the amount of excess insurance
26 coverage necessary for the discharge of the obligations of the employer
27 under AS 23.30 and the protection of the applicant.

28 (c) The director may require a surety bond under AS 21.62.100 as
29 a condition to issuance of a self-insurance certificate.

1 (d) The director shall give written notice to the applicant not
2 later than 30 days before the proposed effective date of his approval
3 or denial of an application for self-insurance. If the application is
4 approved, the notice shall list the conditions which must be met before
5 the self-insurance certificate is issued. If the application is denied,
6 the notice shall state the specific reasons for the denial.

7 (e) A decision of the director is subject to the hearing and
8 appeal procedure under AS 21.06.180 - 21.06.230.

9 Sec. 21.62.090. SELF-INSURANCE CERTIFICATE. Upon approval of an
10 application and receipt of proof of any conditions established under
11 AS 21.62.080(d), the director shall issue a self-insurance certificate
12 to the applicant. The self-insurance certificate shall be on a form
13 prescribed by the director and shall be issued for a period of one
14 year.

15 Sec. 21.62.100. BOND. (a) With each application for self-insur-
16 ance or application for renewal of a self-insurance certificate the
17 director may require a corporate surety bond to secure the payment of
18 obligations under AS 23.30 as they are incurred. The bond shall be on
19 a form prescribed by the director and shall be issued by a corporate
20 surety authorized under AS 21.09 to do business in this state. The
21 amount of the bond for each year shall be equal to or greater than the
22 aggregate retention of the self-insurer but not less than \$25,000.

23 (b) A bond secured in compliance with this section may not be
24 cancelled, exchanged, or replaced unless 60 days written notice is
25 given to the director and to the self-insurer.

26 Sec. 21.62.110. EXCESS INSURANCE. (a) The director shall deter-
27 mine the amount and kind of excess insurance required of an applicant
28 for self-insurance based on the financial strength, past history of
29 loss, and degree of hazard in the operations of the applicant and any

1 other factors he considers appropriate.

2 (b) Excess insurance coverage shall be written by a casualty
3 insurer authorized under AS 21.09 to do business in this state, except
4 that the director may approve a policy of excess insurance with coverage
5 starting at \$1,000,000 with an insurer writing insurance in this state
6 under AS 21.33.

7 (c) A policy of excess insurance issued under this chapter may
8 not be cancelled unless the excess insurer gives 60 days written notice
9 by certified mail to the director and to the self-insurer.

10 (d) The policy of excess insurance shall contain a provision that
11 the director may order the payment of obligations due under the terms
12 of the policy to a party other than the employer if necessary to assure
13 the prompt payment of benefits to injured employees.

14 (e) A policy of excess insurance under this chapter shall cover
15 each employer named in the application for self-insurance under AS 21.-
16 62.030 and no other employers.

17 Sec. 21.62.120. SERVICING FOR SELF-INSURERS. (a) It is the sole
18 responsibility of a self-insurer to provide competent persons to service
19 its programs for claims adjusting, underwriting, and loss control.

20 (b) A self-insurer may contract with one or more approved service
21 companies to provide these services on a full-time basis.

22 (c) The department shall adopt regulations for approving service
23 companies under this section.

24 Sec. 21.62.130. RECORDS. (a) A self-insurer or a service company
25 on behalf of a self-insurer shall maintain all claims records at a
26 location in the state.

27 (b) The records of a self-insurer which relate to self-insurance
28 under this chapter are subject to guidelines established by the director
29 concerning their retention and the review of those records by the

1 director.

2 (c) All claims files of a self-insurer are subject to review by
3 the director during normal business hours at a location in the state as
4 stated in the application for self-insurance.

5 Sec. 21.62.140. REPORTS. The director may by regulation require
6 reports concerning payroll, losses, reserves, financial condition, and
7 other matters reasonably related to the ability of a self-insurer to
8 meet its obligations under AS 23.30. Failure to comply with these
9 regulations is cause for revocation of a self-insurance certificate.

10 Sec. 21.62.150. INDEMNITY AGREEMENT. The director may by regula-
11 tion establish the provisions of the indemnity agreement required under
12 AS 21.62.060(2) and 21.62.070(2). An indemnity agreement may contain
13 other provisions that are consistent with the provisions adopted by
14 regulation.

15 Sec. 21.62.160. REVOCATION OF A SELF-INSURANCE CERTIFICATE. (a)
16 Failure to comply with the provisions of this chapter or AS 23.30 is
17 grounds for revocation of a self-insurance certificate.

18 (b) The director shall give a self-insurer 30 days written notice
19 of a proposed revocation of a self-insurance certificate. The notice
20 of proposed revocation shall contain a statement of the reasons for
21 revocation. Revocation is effective 30 days after a self-insurer re-
22 ceives a notice of proposed revocation unless the self-insurer requests
23 a hearing within 15 days after receiving notice of proposed revocation.
24 Revocation shall be stayed until the hearing process is completed.

25 (c) A self-insurer may appeal an order under this section as
26 provided in AS 21.06.230.

27 Sec. 21.62.170. INDEXING. The director may adopt regulations to
28 provide for a revision of the dollar amounts in AS 21.62.020(a), 21.62.-
29 050(1), 21.62.060(1), 21.62.070(1), 21.62.100(a), and 21.62.110(f) to

1 reflect devaluation of those amounts due to inflation.

2 Sec. 21.62.200. DEFINITIONS. In this chapter

3 (1) "common interest self-insurance group" means a group of
4 employers that are in the same or similar type of business and includes
5 unrelated businesses which are owned or controlled by the same person
6 or persons if one of the unrelated businesses is the same or similar
7 type of business as the other businesses in the group;

8 (2) "common management self-insurance group" means a group
9 of employers which have businesses that are owned or controlled by the
10 same persons;

11 (3) "fund" means a self-insurance fund;

12 (4) "trustee" means a person elected by a common interest
13 self-insurance group for a stated term to direct the administration of
14 a fund.

15 * Sec. 3. AS 18.80.220(a)(4) is amended to read:

16 (4) an employer, labor organization or employment agency to
17 discharge, expel or otherwise discriminate against a person because he
18 has

19 (A) opposed any practices forbidden under AS 18.80.-
20 200 - 18.80.280; [OR BECAUSE HE HAS]

21 (B) filed a complaint, testified or assisted in a
22 proceeding under this chapter; or

23 (C) filed a claim for workers' compensation benefits
24 under AS 23.30;

25 * Sec. 4. AS 21.36.190(d) is amended to read:

26 (d) This section does not apply to workers' compensation insur-
27 ance when issued to an association of employers in the same rating
28 classification [FORMED FOR PURPOSES OTHER THAN THE PURCHASE OF INSUR-
29 ANCE] and which as a group

- 1 (1) has a constitution and bylaws;
2 (2) incorporates a safety program;
3 [(3) AS A GROUP HAS PREFERRED CHARACTERISTICS OVER SIMILAR
4 RISKS WRITTEN ON AN INDIVIDUAL BASIS;] and
5 (4) has filed and received approval from the director for
6 the rating program to be applied to the group.

7 * Sec. 5. AS 21.39.040(d) is amended to read:

8 (d) Subject to the exceptions [EXCEPTION] specified in (e) of
9 this section and AS 21.39.045, each filing shall be on file for a
10 waiting period of 15 days before it becomes effective, which period may
11 be extended by the director for an additional period not to exceed 15
12 days if he gives written notice within the waiting period to the insurer
13 or rating organization which made the filing stating that he needs
14 additional time for the consideration of the filing. Upon written
15 application by the insurer or rating organization, the director may
16 authorize a filing which he has reviewed to become effective before the
17 expiration of the waiting period. A filing shall be considered to meet
18 the requirements of this chapter unless disapproved by the director
19 within the waiting period.

20 * Sec. 6. AS 21.39 is amended by adding a new section to read:

21 Sec. 21.39.045. WORKERS' COMPENSATION RATE FILINGS. (a) A
22 filing of workers' compensation rates by a rating organization shall be
23 limited to provisions for claim payment and may not include allowances
24 for expenses, taxes, or profit, except as necessary for full rate
25 development for an assigned risk pool under AS 21.39.155.

26 (b) If each rate in a schedule of workers' compensation rates for
27 a specific classification of risks filed by an insurer is not lower
28 than the rate for each respective classification filed by a rating
29 organization in accordance with (a) of this section and approved by the

1 director, the schedule of rates filed by the insurer is effective
2 immediately and the waiting period in AS 21.39.040(d) is not required.

3 (c) Notwithstanding (b) of this section, the director may require
4 an insurer to comply with the waiting period in AS 21.39.040(d) for a
5 rate filing or part of a rate filing if he determines that the rate
6 filing or part of the rate filing is excessive, inadequate, or unfairly
7 discriminatory.

8 * Sec. 7. AS 21.39.070 is amended by adding new subsections to read:

9 (c) Notwithstanding (a) of this section, a filing by an insurer
10 of an independent deductible or loss reimbursement plan is not consid-
11 ered a deviation under this section.

12 (d) Notwithstanding (a) of this section, a filing of workers'
13 compensation rates under AS 21.39.045(b) is not a deviation under this
14 section.

15 * Sec. 8. AS 23.30.005(a) is amended to read:

16 (a) The Alaska Workers' Compensation Board shall consist of nine
17 [SEVEN] members, including a southern panel of three members sitting
18 for the first judicial district, a northern panel of three members
19 sitting for the second and fourth judicial districts, [AND] a south-
20 central panel of three members sitting for the third judicial district,
21 and one panel of three members which may sit in any judicial district.

22 Each panel shall include the commissioner of labor or his designated
23 representative, a representative of industry and a representative of
24 labor. The latter two members of each panel shall be appointed by the
25 governor. All panel members are subject to confirmation by a majority
26 of the members of the legislature in joint session.

27 * Sec. 9. AS 23.30.010 is amended to read:

28 Sec. 23.30.010. COVERAGE. Benefits are [COMPENSATION IS] payable
29 under this chapter in respect of disability or death of an employee.

1 * Sec. 1(). AS 23.30.015 is amended to read:

2 Sec. 23.30.015. BENEFITS [COMPENSATION] WHERE THIRD PERSONS ARE
3 LIABLE. (a) If on account of disability or death for which benefits
4 [COMPENSATION IS] payable under this chapter the person entitled to the
5 benefits [COMPENSATION] believes that a third person other than the
6 employer or a fellow employee is liable for damages, he need not elect
7 whether to receive benefits [COMPENSATION] or to recover damages from
8 the third person.

9 (b) Acceptance of benefits [COMPENSATION] under an award in a
10 compensation order filed by the board operates as an assignment to the
11 employer of all rights of the person entitled to benefits [COMPENSATION]
12 and the personal representative of a deceased employee to recover
13 damages from the third person unless the person or representative
14 entitled to benefits [COMPENSATION] commences an action against the
15 third person within one year after an award.

16 (c) Payment of compensation into the second-injury fund as a
17 result of death operates as an assignment to the employer of all rights
18 of the representative of the deceased to recover damages from the third
19 person.

20 (d) An employer under an assignment may either institute proceed-
21 ings for the recovery of damages or may compromise with a third person,
22 either without or after instituting an action.

23 (e) An amount recovered by the employer under an assignment,
24 whether by action or compromise, shall be distributed as follows:

25 (1) The employer shall retain an amount equal to

26 (A) the expenses incurred by him in respect to the
27 action or compromise, including a reasonable attorney fee deter-
28 mined by the board;

29 (B) the cost of all benefits actually furnished by him

1 under this chapter;

2 (C) all amounts paid as compensation and second-injury
3 fund payments;

4 (D) the present value of all amounts payable later as
5 compensation (present value to be computed from a schedule prepared
6 by the board), and the present value of the cost of all benefits
7 to be furnished later under AS 23.30.095 (as estimated by the
8 board), the amounts so computed and estimated to be retained by
9 the employer as a trust fund to pay compensation and cost of
10 benefits as they become due and to pay any finally remaining
11 excess sum to the person entitled to benefits [COMPENSATION] or to
12 the representative; and

13 (2) the employer shall pay any excess to the person entitled
14 to benefits [COMPENSATION] or to his representative.

15 (f) Even if an employee, his representative, or his employer
16 brings an action or settles a claim against the third person, the
17 employer shall pay the benefits [AND COMPENSATION] required by this
18 chapter.

19 (g) If the employee or his representative recovers damages from
20 the third person, the employee or representative shall promptly pay to
21 the employer the total amounts paid by the employer under (e)(1)(A),
22 (B), and (C) of this section, insofar as the recovery is sufficient
23 after deducting all litigation costs and expenses. Any excess recovery
24 by the employee or representative shall be credited against any amount
25 payable by the employer thereafter.

26 (h) If compromise with a third person is made by the person
27 entitled to benefits [COMPENSATION] or his representative of an amount
28 less than the benefits [COMPENSATION] to which the person or repre-
29 sentative would be entitled, the employer is liable for benefits

1 [COMPENSATION] stated in (f) of this section only if the compromise is
2 made with his written approval.

3 (i) If the employer is insured and the carrier has assumed the
4 payment of benefits [COMPENSATION] the carrier shall be subrogated to
5 all the rights of the employer.

6 (j) Notice of the commencement of an action against a third party
7 shall be given to the board and to all interested parties within 30
8 days.

9 * Sec. 11. AS 23.30.020 is amended to read:

10 Sec. 23.30.020. CHAPTER PART OF CONTRACT OF HIRE. This chapter
11 constitutes part of every contract of hire, express or implied, and
12 every contract of hire shall be construed as an agreement on the part
13 of the employer to pay and on the part of the employee to accept
14 benefits [COMPENSATION] in the manner provided in this chapter for all
15 personal injuries sustained.

16 * Sec. 12. AS 23.30.025(b) is amended to read:

17 (b) All policies of insurance companies insuring the payment of
18 benefits [COMPENSATION] under this chapter are conclusively presumed to
19 cover all the employees and the entire benefits [COMPENSATION] liability
20 of the insured employer employed at or in connection with the business
21 of the employer carried on, maintained, or operated at the location or
22 locations set out [FORTH] in that [SUCH] policy or agreement. A
23 provision in a policy attempting to limit or modify the liability of
24 the company issuing it is wholly void except as provided in (c) of this
25 section.

26 * Sec. 13. AS 23.30.025 is amended by adding a new subsection to read:

27 (c) An insurer may issue a policy of insurance insuring the
28 payment of benefits under this chapter which provides for a deductible
29 amount to be paid by the employer. A policy with a deductible provision

1 must be approved by the director of insurance and must provide that the
2 deductible amount be paid by the insurer to the employee on behalf of
3 the employer. After payment of the deductible by the insurer, the
4 insurer may recover the deductible amount from the employer. The
5 failure of an employer to reimburse an insurer for the deductible
6 amount does not relieve the insurer from any other obligation it may
7 have under the policy of insurance. An insurer is not required to
8 apply for a deviation under AS 21.39.070 in order to issue a policy
9 under this subsection. This subsection does not apply to a policy of
10 excess insurance purchased by a self-insurer.

11 * Sec. 14. AS 23.30.030 is amended to read:

12 Sec. 23.30.030. REQUIRED POLICY PROVISIONS. A policy of a
13 company insuring the payment of benefits [COMPENSATION] under this
14 chapter is considered to contain the provisions set out in (1) - (7) of
15 this section.

16 (1) The insurer assumes in full all the obligations to pay
17 physician's fees, nurse's charges, hospital services, hospital supplies,
18 medicine, prosthetic devices, transportation charges to the nearest
19 point where adequate medical facilities are available, burial expenses,
20 and compensation or death benefits imposed upon the insured under the
21 provisions of this chapter.

22 (2) The policy is made subject to the provisions of this
23 chapter and its provisions relative to the liability of the insured
24 employer to pay physician's fees, nurse's charges, hospital services,
25 hospital supplies, medicines, prosthetic devices, transportation charges
26 to the nearest point where adequate medical facilities are available,
27 burial expenses, compensation or death benefits to and for [SAID]
28 employees or beneficiaries, the acceptance of the liability by the
29 insured employer, the adjustment, trial and adjudication of claims for

1 the physician's fees, nurse's charges, hospital services, hospital
2 supplies, medicines, prosthetic devices, transportation charges to the
3 nearest point where adequate medical facilities are available, burial
4 expenses, compensation or death benefits and the liability of the
5 insurer to pay the same are considered a part of this policy contract.

6 (3) As between the insurer and the employee or his benefici-
7 aries, notice to or knowledge of the occurrence of the injury on the
8 part of the insured employer is notice or knowledge on the part of the
9 insurer; jurisdiction of the insured employer for the purpose of this
10 chapter is jurisdiction of the insurer; and the insurer, in all things,
11 is bound by and subject to the orders, awards, judgments and decrees
12 made against the insured employer under this chapter.

13 (4) The insurer will promptly pay to the person entitled to
14 them the benefits conferred by this chapter, including physician's
15 fees, nurse's charges, hospital services, hospital supplies, medicines,
16 prosthetic devices, transportation charges to the nearest point where
17 adequate medical facilities are available, burial expenses, and all
18 installments of compensation or death benefits awarded or agreed upon
19 under this chapter. The obligation of the insurer is not affected by a
20 default of the insured employer after the injury, or by default in
21 giving a notice required by this policy. The policy is a direct
22 promise by the insurer to the person entitled to physician's fees,
23 nurse's charges, fees for hospital services, charges for medicines,
24 prosthetic devices, transportation charges to the nearest point where
25 adequate medical facilities are available, and hospital supplies,
26 charges for burial, compensation or death benefits, and is enforceable
27 in the name of that person. The insurer shall provide claims facili-
28 ties through its own staffed adjusting facilities located within the
29 state, or by independent, licensed, resident adjusters with power to

1 effect settlement within the state.

2 (5) A termination of the policy by cancellation is not
3 effective as to the employees of the insured employer covered by it
4 until 20 days after written notice of the termination has been received
5 by the board. If the employer has a contract with the state or a home
6 rule or other political subdivision of the state, and his policy is
7 cancelled due to nonpayment of a premium, the termination of the policy
8 is not effective as to the employees of the insured employer covered by
9 it until 20 days after written notice of the termination has been
10 received by the contracting agency, and the agency has the option of
11 continuing the payments on behalf of the employer in order to keep the
12 policy in force. If, however, the employer has secured insurance with
13 another insurance carrier, cancellation is effective as of the date of
14 the new coverage.

15 (6) All claims for compensation, death benefits, physician's
16 fees, nurse's charges, hospital services, hospital supplies, medicines,
17 prosthetic devices, transportation charges to the nearest point where
18 adequate medical facilities are available, and burial expenses, may be
19 made directly against either the employer or the insurer, or both, and
20 the order or award of the board may be made against either the employer
21 or the insurer or both.

22 (7) If the insurer fails or refuses to pay a final award or
23 judgment (except during the pendency of an appeal) made against it, or
24 its insured, or if it fails or refuses to comply with a provision of
25 this chapter, the director of insurance [COMMISSIONER] shall revoke the
26 approval of the policy form, and may not accept further proofs of
27 insurance from it until it has paid the award or judgment or has
28 complied with the violated provision of this chapter, and has resub-
29 mitted its policy form and received the approval of the form by the

1 insurance commissioner.

2 * Sec. 15. AS 23.30.040 is repealed and reenacted to read:

3 Sec. 23.30.040. SECOND INJURY FUND. (a) There is created a
4 second injury fund, administered by the commissioner of labor. Money
5 in the second injury fund may only be paid for the benefit of those
6 persons entitled to payment of benefits from the second injury fund
7 under this chapter. Payments from the second injury fund must be made
8 by the commissioner of labor in accordance with the orders and awards
9 of the board.

10 (b) If an employee suffers a compensable injury which results in
11 temporary total disability, temporary partial disability, permanent
12 partial disability, or permanent total disability, the employer or
13 insurance carrier shall contribute to the second injury fund. The
14 contribution must be made by one year from the date of the injury or on
15 termination of the employee's claim, whichever is sooner. The amount
16 of the contribution is the product of the compensation to which the
17 employee is entitled for temporary total disability, temporary partial
18 disability, permanent partial disability, permanent total disability,
19 or for rehabilitation under AS 23.30.191 and the applicable contribution
20 rate set out in column A of this subsection. By December 15 of each
21 year the commissioner shall determine and make available to the public
22 the applicable contribution rate for the following calendar year accord-
23 ing to the reserve rate of the second injury fund in Column B of this
24 subsection:

25	Column A	Column B	
26	Second Injury Fund	Reserve Rate	
27	Contribution Rate	At Least	But Less Than
28	(Percent)	(Percent)	(Percent)
29	6	0	50