

**SENATE BILL NO. 35**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY SENATOR EGAN

Introduced: 1/25/13

Referred: Labor and Commerce, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act authorizing employers and employees to mediate disputed workers'  
2 compensation claims and to negotiate a collective bargaining agreement that offers  
3 mediation and mandates arbitration of disputed workers' compensation claims by a  
4 hearing officer or other classified employee of the division of workers' compensation and  
5 allowing collective bargaining agreements to supersede certain provisions of the Alaska  
6 Workers' Compensation Act; and providing for an effective date."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 \* **Section 1.** AS 23.30.110 is amended by adding a new subsection to read:

9 (i) If the employee and the employer disagree with respect to the issues  
10 relating to a claim under this chapter, the employee and the employer and their  
11 respective representatives and agents may attend mediation, subject to the following:

12 (1) mediation under this section

13 (A) is intended to facilitate settlement of a disputed claim, but

1 the mediator does not have the power to compel a settlement;

2 (B) shall be conducted by a hearing officer or other classified  
3 employee of the division of workers' compensation;

4 (C) shall be conducted informally as one or more in-person or  
5 telephonic conferences, as determined by the mediator;

6 (D) shall be confidential; and

7 (E) may not be recorded;

8 (2) notwithstanding AS 23.30.135, evidence of efforts to compromise  
9 or settle disputed claims and conduct or statements made during mediation may not be  
10 used as evidence at a hearing under this chapter;

11 (3) after the first conference, either party may withdraw, or the  
12 mediator may terminate mediation if the mediator determines that further mediation  
13 efforts would be unproductive;

14 (4) if the mediator determines that mediation efforts are unsuccessful,  
15 the mediator shall terminate mediation and notify the board that mediation efforts have  
16 failed;

17 (5) if the mediation is successful, the mediator may assist the employer  
18 and the employee in preparing a memorandum of agreement for filing with the board  
19 or approval by the board under AS 23.30.012;

20 (6) if the employer and employee fail to reach an agreement by  
21 mediation, the procedure for a hearing under this section shall continue;

22 (7) the expense of the mediation may not be assessed against the  
23 participants.

24 \* **Sec. 2.** AS 23.30 is amended by adding a new section to read:

25 **Sec. 23.30.285. Collective bargaining agreements.** (a) A collective  
26 bargaining agreement negotiated between an employer or a group of employers and a  
27 labor organization that represents employees may

28 (1) establish a process for resolving disputes under this chapter through  
29 mediation or arbitration, or both; a process established under this paragraph must  
30 provide that

31 (A) the parties must agree before a particular dispute may be

1 submitted to mediation;

2 (B) if mediation fails, the parties shall submit the dispute to  
3 arbitration under AS 09.43.300 - 09.43.595;

4 (C) notwithstanding AS 09.43.300 - 09.43.595, the mediation  
5 or arbitration be conducted by a hearing officer or other classified employee of  
6 the division of workers' compensation;

7 (D) the mediation or arbitration govern the dispute resolution  
8 process under this chapter;

9 (E) the dispute resolution process result in findings of fact,  
10 award, and a final order or decision by the arbitrator; the award, order, or  
11 decision of the arbitrator has the same force and effect as a finding of fact,  
12 award, order, or decision of a hearing officer under AS 23.30.005;

13 (2) identify health care providers who are the exclusive source of  
14 medical treatment provided under this chapter; in this paragraph, "health care  
15 provider" has the meaning given in AS 09.55.560;

16 (3) identify independent medical evaluators who are the exclusive  
17 source of medical evaluations authorized under this chapter;

18 (4) identify vocational rehabilitation specialists who are the exclusive  
19 source of vocational rehabilitation services regulated under this chapter;

20 (5) establish a joint safety committee with representatives from the  
21 employer and the labor organization; and

22 (6) establish a program for light-duty employment or employment that  
23 is modified according to limitations or restrictions imposed by a physician or  
24 chiropractor.

25 (b) A collective bargaining agreement negotiated under the authority set out in  
26 (a) of this section may not reduce a benefit set out in this chapter. For purposes of this  
27 subsection, the process and agreements negotiated under a collective bargaining  
28 agreement under (a) of this section may not be construed to diminish a benefit under  
29 this chapter.

30 (c) Competing physicians may meet and communicate to negotiate  
31 collectively with a party to a collective bargaining agreement in the same manner as

1 the competing physicians may meet and communicate with a health benefit plan  
2 concerning the contract terms and conditions under AS 23.50.020 relating to the  
3 identity of the health care providers who are the exclusive source of medical treatment  
4 under (a)(2) of this section.

5 (d) In this section, "labor organization" means a labor or employee  
6 organization of any kind in which employees participate and that exists for the primary  
7 purpose of dealing with employers concerning grievances, labor disputes, wages, rates  
8 of pay, hours of employment, and conditions of employment.

9 \* **Sec. 3.** This Act takes effect July 1, 2013.