

Byron Mallott  
Lieutenant Governor  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Tally Teal  
Department of Labor & Workforce Development

**FROM:** Scott Meriwether, Office of the Lieutenant Governor 465.4081 

**DATE:** March 21, 2018

**RE:** Filed Permanent Regulations: Department of Labor & Workforce Development  
  
Department of Labor and Workforce Development Regulations re: 8 AAC 85.015,.110:  
Div. of Employment & Training Services: Unemployment Insurance: Definition of  
Motion Picture Project Employer, etc. (8 AAC 85.015,.110)

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|                        |                |
|------------------------|----------------|
| Attorney General File: | JU2017200670   |
| Regulation Filed:      | 3/21/2018      |
| Effective Date:        | 4/20/2018      |
| Print:                 | 226, July 2018 |

cc with enclosures: Linda Miller, Department of Law  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

The attached three pages of regulations, dealing with unemployment insurance, are adopted and certified to be a correct copy of the regulation changes that the Department of Labor and Workforce Development adopts under the authority of AS 23.20.045, AS 23.20.080, AS 23.20.085, AS 23.20.165, AS 23.20.315, AS 23.20.330, and AS 23.20.375, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Department of Labor and Workforce Development paid special attention to the cost to private persons of the regulatory action being taken.


The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 2/15/18

  
\_\_\_\_\_  
Greg Cashen, Acting Commissioner

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on March 21, 2018, at 859 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
\_\_\_\_\_  
Byron Mallott, Lieutenant Governor

Effective: April 20, 2018

Register: 226, July 2018

8 AAC 85.015 is amended by adding new subsections to read:

(b) Notwithstanding (a) of this section, a motion picture project employer is an employing unit if remuneration paid to a motion picture project worker by a motion

picture project employer during a calendar year is treated as remuneration for services

performed by the worker for the employer during the calendar year. *In this subsection,*

(1) <sup>ii</sup> ~~A~~ motion picture project employer means any entity that <sup>ii</sup>

(A) directly or through affiliates

(i) is a party to a written contract covering the services of a motion picture project worker with respect to motion picture projects in the course of a client's trade or business;

(ii) is contractually obligated to pay remuneration to a motion picture project worker without regard to payment or reimbursement by any other person;

(iii) controls the payment, within the meaning of 26 U.S.C.

3401(d)(1), of remuneration to a motion picture project worker and pays <sup>the</sup> ~~such~~ remuneration from its own account or accounts;

(iv) is a signatory to one or more collective bargaining agreements with a labor organization, as defined in 29 U.S.C. 152(5), that represents motion picture project workers, and;

(v) has treated substantially all motion picture project workers that <sup>the</sup> ~~such~~ entity pays as employees and not as independent contractors

during <sup>that</sup> ~~such~~ calendar year for purposes of determining employment

taxes under this subtitle, and;

in the calendar year pays

(B) at least 80 percent of all remuneration paid by <sup>the</sup> ~~such~~ entity ~~in the~~  
~~calendar year is paid~~ to motion picture project workers.

~~(2) For the purposes of this section,~~

<sup>2</sup> ~~(A)~~ "motion picture project worker" means an individual who provides services on motion picture projects for clients who are not affiliated with the motion picture project employer;

<sup>3</sup> ~~(B)~~ "motion picture project" means <sup>(A)</sup> the production of any property including a theatrical motion picture, a television production, a television commercial, or a music video; <sup>(B)</sup> "motion picture project" does not include property with respect to which records are required to be maintained under 18 U.S.C. 2257;

<sup>4</sup> ~~(C)~~ "Affiliate" means a person who is an affiliate or, or affiliated with, another person if the persons are treated as a single employer under 26 U.S.C. 414(b) or (c). (Eff. 6/27/2014, Register 210; am. 4/20/2018,

Register 226)

Authority: AS 23.20.045 AS 23.20.165 AS 23.20.315  
AS 23.20.080

8 AAC 85.110 is amended by adding a new subsection to read:

((( Publisher: Designate  
current 11 AAC 85.110(i)  
as 11 AAC 85.110(g).)))

**(i) Backdating an Interstate Initial Claim at Agent State's Request. A**

interstate initial claim may be backdated up to one calendar year at an agent state's



Register 226, July, 2018 Department of Labor and Workforce Development

request if the liable state determines that it is liable and the agent state has established good cause for the backdate. (Eff. 10/25/68, Register 27; am 8/20/70, Register 35; am 1/7/78, Register 65; am 3/27/82, Register 81; am 10/12/97, Register 144; am 3/4/2006, Register 177; am 3/25/2007, Register 181; am 3/30/2016, Register 217; am 4/20/2018, Register 226)

**Authority:** AS 23.20.045                      AS 23.20.330                      AS 23.20.375  
AS 23.20.085

# MEMORANDUM

## State of Alaska Department of Law

**To:** The Honorable Byron Mallott  
Lieutenant Governor

**Date:** March 16, 2018

**File No.:** JU2017200670

**Tel. No.:** 465-3600

**From:** Susan R. Pollard *SRP*  
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation and Regulations Section

**Re:** Department of Labor and Workforce  
Development Regulations re: 8 AAC  
85.015, .110: Div. of Employment &  
Training Services: Unemployment  
Insurance: Definition of Motion  
Picture Project Employer, etc.

The Department of Law has reviewed the attached regulations of the Department of Labor and Workforce Development against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The regulations were adopted after the close of the public comment period. The regulations concern the determination of an employing unit for a motion picture project worker employed by a motion picture project employer.

The December 31, 2017 public notice and the February 15, 2018 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SRP/jkc

Hon. Byron Mallott, Lieutenant Governor  
Our file: JU2017200670

March 16, 2018  
Page 2 of 2

cc: (via email)

Honorable Greg Cashen, Acting Commissioner  
Department of Labor and Workforce Development

Tally Teal, Regulations Contact  
Department of Labor and Workforce Development

Ed Flanagan, Director  
Division of Employment and Training Services  
Department of Labor and Workforce Development

Michael Stanker, Assistant Attorney General  
Labor and State Affairs Section  
Department of Law

NOTICE OF PROPOSED CHANGES ON UNEMPLOYMENT INSURANCE IN THE  
REGULATIONS OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

BRIEF DESCRIPTION

The Department of Labor and Workforce Development proposes to change regulations on unemployment insurance to include a new regulation defining 'a motion picture project employer (MPPE) as an employer for the purpose of paying unemployment tax' and amending a current regulation to limit a backdate request from agent states to one year.

The Department of Labor and Workforce Development proposes to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with unemployment insurance, including the following:

- (1) 8 AAC 85 is proposed to be changed as follows:
- AAC 85.016 Addition of a new regulation defining a motion picture project employer an employing entity.
  - AAC 85.110 is amended by adding a new subsection to limit the backdating request from an agent state to one year.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Kimberly Schnell at P.O. Box 241767, Anchorage, Alaska 99524, or [kimberly.schnell@alaska.gov](mailto:kimberly.schnell@alaska.gov). The comments must be received no later than 5:00 p.m. on Friday, February 2<sup>nd</sup>, 2018.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Kimberly Schnell at (907) 269-4758 or [kimberly.schnell@alaska.gov](mailto:kimberly.schnell@alaska.gov) not later than Monday, January 29<sup>th</sup>, 2018, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Kimberly Schnell at (907) 269-4758 or [kimberly.schnell@alaska.gov](mailto:kimberly.schnell@alaska.gov).

After the public comment period ends, the Department of Labor and Workforce Development will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.**

**Statutory Authority:** AS 23.20.045, AS 23.20.080, AS 23.20.085, AS 23.20.165, AS 23.20.315, AS 23.20.330, AS 23.20.375

**Statutes Being Implemented, Interpreted, or Made Specific:** AS 23.20.005, AS 23.20.045, AS 23.20.080, AS 23.20.085, AS 23.20.315, AS 23.20.330, AS 23.20.375.

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.

Date: 12/28/17

  
\_\_\_\_\_  
Heidi Drygas, Commissioner



ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Labor and Workforce Development
2. General subject of regulation: Unemployment Insurance
3. Citation of regulation: 8 AAC 85.015; 8 AAC 85.110(g)
4. Department of Law file number, if any: 2017200670
5. Reason for the proposed action:  
☐ Compliance with federal law or action (identify): \_\_\_\_\_  
☐ Compliance with new or changed state statute  
☐ Compliance with Federal or state court decision (identify) \_\_\_\_\_  
☒ Development of program standards  
☐ Other (identify): \_\_\_\_\_
6. Appropriation/Allocation: Unemployment Insurance component 2276
7. Estimated annual costs in the aggregate to comply with the proposed action to:  
Private Persons: 0.00  
Other State Agencies: 0.00  
Municipalities: 0.00

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

|                                     | Initial Year   | Subsequent     |
|-------------------------------------|----------------|----------------|
|                                     | FY 2018        | Years          |
| Operating Cost                      | \$ <u>0.00</u> | \$ <u>0.00</u> |
| Capital Cost                        | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 1002 Federal receipts               | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 1003 General fund match             | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 1004 General fund                   | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 1005 General fund/<br>program       | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 1037 General fund/<br>mental health | \$ <u>0.00</u> | \$ <u>0.00</u> |
| Other                               | \$ <u>0.00</u> | \$ <u>0.00</u> |

9. The name of the contact person for the regulations:  
Kimberly Schnell  
Employment Security Analyst II  
PO Box 241767  
Anchorage, Alaska 99524-1767  
(907) 269-4758  
kimberly.schnell@alaska.gov

10. The origin of the proposed action:

- ☒ Staff of state agency  
☐ Federal government  
☐ General public  
☐ Petition for regulation change  
☐ Other (identify) \_\_\_\_\_

11.

Date:

12/28/2017

Prepared by:

David Hannum for

Patsy Westcott

Assistant Director, UI

(907) 465-5927

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Natalie Teal, Legislative Liaison, of the Alaska Department of Labor and Workforce Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 8 AAC 85.016 and 8 AAC 85.110 relating to unemployment insurance has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to appropriate state officials;
- (3) furnished to the Department of Law, along with a copy of the proposed regulation;
- (4) furnished electronically to incumbent State of Alaska legislators;
- (5) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (6) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (7) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Labor and Commerce Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to those in (4) and (5) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 10 Jan 2018

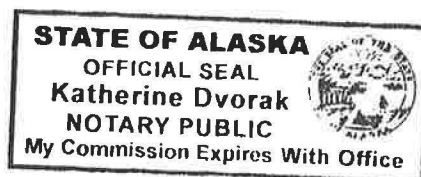
Natalie Teal

Natalie Teal, Legislative Liaison

Subscribed and sworn to before me at DOLWD CO Office Juneau on  
10 January 2018.

K. Duvell

Notary Public in and for the State of Alaska



AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Kimberly Schnell, Employment Security Analyst, of the Alaska Department of Labor and Workforce Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 8 AAC 85.016 and 8 AAC 85.110 relating to unemployment insurance has been given by being furnished to interested persons.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons.

Date: 1/2/18

Kim Schnell  
Kimberly Schnell, Employment Security Analyst

Subscribed and sworn to before me at Anchorage, AK on 01/02/18.

[Signature]  
Notary Public in and for the State of Alaska





AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Kimberly Schnell, Unemployment Insurance (UI) Employment Security Analyst for the Department of Labor and Workforce Development, being duly sworn, state the following:

In compliance with AS 44.62.215, The Department of Labor and Workforce Development did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Labor and Workforce Development regulation on defining motion picture project employer as an employing entity, and limiting backdating requests from an agent state to one year.

Date: 2/22/18



Kimberly Schnell, UI Employment Security Analyst  
Department of Labor and Workforce Development

Subscribed and sworn to before me at ANCHORAGE on 2/22/2018.



Notary Public in and for the State of Alaska

[NOTARY SEAL]



268981  
#1414785  
\$224.10

# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Joleesa Stepetin  
being first duly sworn on oath  
deposes and says that she is  
a representative of the  
Alaska Dispatch News, a  
daily newspaper. That said  
newspaper has been approved  
by the Third Judicial Court,  
Anchorage, Alaska, and it now  
and has been published in the  
English language continually as a  
daily newspaper in Anchorage,  
Alaska, and it is now and during  
all said time was printed in an  
office maintained at the aforesaid  
place of publication of said  
newspaper. That the annexed is  
a copy of an advertisement as it  
was published in regular issues  
(and not in supplemental form)  
of said newspaper on

December 31, 2017

and that such newspaper was  
regularly distributed to its  
subscribers during all of said  
period. That the full amount of  
the fee charged for the foregoing  
publication is not in excess of  
the rate charged private individuals.

Signed

*Joleesa Stepetin*

Subscribed and sworn to before

me this 3 day of Jan

20 18

*Britney Thompson*

Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska

MY COMMISSION EXPIRES

2/23/2019

## NOTICE OF PROPOSED CHANGES ON UNEMPLOYMENT INSURANCE IN THE REGULATIONS OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

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Box 241767, Anchorage, Alaska 99524, or [kimberly.schnell@alaska.gov](mailto:kimberly.schnell@alaska.gov).  
The comments must be received no later than 5:00 p.m. on Friday,  
February 2nd, 2018.

If you are a person with a disability who needs a special  
accommodation in order to participate in this process, please contact  
Kimberly Schnell at (907) 269-4758 or [kimberly.schnell@alaska.gov](mailto:kimberly.schnell@alaska.gov) not  
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23.20.330, AS 23.20.375.

Fiscal Information: The proposed regulation changes are not expected  
to require an increased appropriation.

Published: December 31, 2017

RECEIVED  
JAN 08 2018  
Administrative  
Services

Notary Public  
BRITNEY L. THOMPSON  
State of Alaska  
My Commission Expires Feb 23, 2019