

**HOUSE BILL NO. 155**

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

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 2/11/11

Referred: Labor and Commerce

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to public construction contracts."**

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

3 \* **Section 1.** AS 36.05 is amended by adding a new section to read:

4 **Sec. 36.05.005. Applicability.** This chapter applies only to a public  
5 construction contract that exceeds \$75,000.

6 \* **Sec. 2.** AS 36.05.010 is amended to read:

7 **Sec. 36.05.010. Wage rates on public construction.** A contractor or  
8 subcontractor who performs work on a public construction contract in the state [, AS  
9 DEFINED BY AS 36.95.010,] shall pay not less than the current prevailing rate of  
10 wages for work of a similar nature in the region in which the work is done. The  
11 current prevailing rate of wages is that contained in the latest determination of  
12 prevailing rate of wages issued by the Department of Labor and Workforce  
13 Development at least 10 days before the final date for submission of bids for the  
14 contract. The rate shall remain in effect for the life of the contract or for 24 calendar  
15 months, whichever is shorter. At the end of the initial 24-month period, if new wage

1 determinations have been issued by the department, the latest wage determination  
 2 shall become effective for the next 24-month period or until the contract is completed,  
 3 whichever occurs first. This process shall be repeated until the contract is completed.

4 \* **Sec. 3.** AS 36.05.045(a) is amended to read:

5 (a) Before commencing work on a public construction contract, the person  
 6 entering into the contract with a contracting agency shall designate a primary  
 7 contractor for purposes of this section. Before work commences, the primary  
 8 contractor shall file a notice of work with the Department of Labor and Workforce  
 9 Development. The notice of work must list work to be performed under the public  
 10 construction contract by each contractor who will perform any portion of work on the  
 11 contract and the contract price being paid to each contractor. The primary contractor  
 12 shall pay all filing fees for each contractor performing work on the contract, including  
 13 a filing fee based on the contract price being paid for work performed by the primary  
 14 contractor's employees. The filing fee payable shall be the sum of all fees calculated  
 15 for each contractor. The filing fee shall be one percent of each contractor's contract  
 16 price. The total filing fee payable by the primary contractor under this subsection may  
 17 not exceed \$5,000. [THERE IS NO FEE FOR A CONTRACT UNDER WHICH THE  
 18 TOTAL AMOUNT PAYABLE BY THE CONTRACTING AGENCY IS LESS  
 19 THAN \$25,000.] In this subsection, "contractor" means an employer who is using  
 20 employees to perform work on the public construction contract under the contract or a  
 21 subcontract.

22 \* **Sec. 4.** AS 36.05.070(a) is amended to read:

23 (a) The advertised specifications for a public construction contract  
 24 [EXCEEDING \$2,000 TO WHICH THE STATE OR A POLITICAL SUBDIVISION  
 25 OF THE STATE IS A PARTY] that requires or involves the employment of  
 26 mechanics, laborers, or field surveyors **must** [SHALL] contain a provision stating the  
 27 minimum wages to be paid various classes of laborers, mechanics, or field surveyors  
 28 and that the rate of wages shall be adjusted to the wage rate under AS 36.05.010.

29 \* **Sec. 5.** AS 36.05.070(c) is amended to read:

30 (c) A **public construction** contract **under (a) of this section must** [FOR  
 31 PUBLIC WORKS IN THE STATE OR A POLITICAL SUBDIVISION SHALL]

1 contain provisions that

2 (1) the contractor or subcontractors of the contractor shall pay all  
3 employees unconditionally and not less than once a week;

4 (2) wages may not be less than those stated in the advertised  
5 specifications, regardless of the contractual relationship between the contractor or  
6 subcontractors and laborers, mechanics, or field surveyors;

7 (3) the scale of wages to be paid shall be posted by the contractor in a  
8 prominent and easily accessible place at the site of the work;

9 (4) the state or a political subdivision shall withhold so much of the  
10 accrued payments as is necessary to pay to laborers, mechanics, or field surveyors  
11 employed by the contractor or subcontractors the difference between

12 (A) the rates of wages required by the contract to be paid  
13 laborers, mechanics, or field surveyors on the work, and

14 (B) the rates of wages in fact received by laborers, mechanics,  
15 or field surveyors.

16 \* **Sec. 6.** AS 36.05.090(a) is amended to read:

17 (a) The state disbursing officer in the case of a state **public construction**  
18 contract and the local fiscal officer in the case of a political subdivision **public**  
19 **construction** contract shall pay directly to laborers, mechanics, or field surveyors  
20 from accrued payments withheld under the terms of the contract the wages due  
21 laborers, mechanics, or field surveyors under AS 36.05.070.

22 \* **Sec. 7.** AS 36.05.110 is amended to read:

23 **Sec. 36.05.110. Contracts entered into without advertising.** The fact that a  
24 public **construction** contract authorized by law is entered into upon a cost-plus-a-  
25 fixed-fee basis or otherwise, without advertising for proposals, does not make  
26 AS 36.05.070 - 36.05.110 inapplicable if they are otherwise applicable to the contract.

27 \* **Sec. 8.** AS 36.05.900 is amended by adding new paragraphs to read:

28 (2) "public construction" means the on-site field surveying, erection,  
29 rehabilitation, alteration, extension or repair, including painting or redecorating of,  
30 buildings, highways, or other improvements to real property under contract for the  
31 state or a political subdivision of the state, but does not include maintenance work; in

1 this paragraph, "maintenance work" means work that is necessary to maintain an  
2 improvement in a safe and functional state or only returns an improvement to a  
3 condition in which the improvement previously existed without improving the original  
4 condition of the improvement as constructed or as subsequently improved;

5 (3) "public construction contract" means a contract for public  
6 construction;

7 (4) "state or a political subdivision of the state" means a state  
8 department, state agency, state university, municipality, or other state subdivision,  
9 except for a school district of a municipality or a regional educational attendance area.

10 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **APPLICABILITY.** This Act applies to a public construction contract that is subject to  
13 AS 36.05 and entered into on or after the effective date of this Act. In this section, "public  
14 construction contract" has the meaning given in AS 36.05.900, as amended by sec. 8 of this  
15 Act.