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Bannister
3/17/11

CS FOR HOUSE BILL NO. 155()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the applicability of prevailing wage rates to public construction**
2 **contracts; and, with regard to public construction contracts, relating to notifications,**
3 **bonding notifications, filings, notices, primary contractors, final payments, penalties,**
4 **advertised specifications, required contract provisions, terminations, lists of violating**
5 **contractors, and remedies."**

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

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

8 **Sec. 36.05.005. Applicability.** This chapter applies only to a public
9 construction contract that exceeds \$25,000.

10 *** Sec. 2.** AS 36.05.010 is amended to read:

11 **Sec. 36.05.010. Wage rates on public construction.** A contractor or
12 subcontractor who performs work on a public construction **contract** in the state [, AS
13 **DEFINED BY AS 36.95.010,**] shall pay not less than the current prevailing rate of

wages for work of a similar nature in the region in which the work is done. The current prevailing rate of wages is that contained in the latest determination of prevailing rate of wages issued by the Department of Labor and Workforce Development at least 10 days before the final date for submission of bids for the contract. The rate shall remain in effect for the life of the contract or for 24 calendar months, whichever is shorter. At the end of the initial 24-month period, if new wage determinations have been issued by the department, the latest wage determination shall become effective for the next 24-month period or until the contract is completed, whichever occurs first. This process shall be repeated until the contract is completed.

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

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

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

(a) The advertised specifications for a public construction contract [EXCEEDING \$2,000 TO WHICH THE STATE OR A POLITICAL SUBDIVISION OF THE STATE IS A PARTY] that requires or involves the employment of

1 mechanics, laborers, or field surveyors **must** [SHALL] contain a provision stating the
2 minimum wages to be paid various classes of laborers, mechanics, or field surveyors
3 and that the rate of wages shall be adjusted to the wage rate under AS 36.05.010.

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

5 (c) A **public construction** contract **under (a) of this section must** [FOR
6 PUBLIC WORKS IN THE STATE OR A POLITICAL SUBDIVISION SHALL]
7 contain provisions that

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

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

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

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

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

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

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

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

28 * **Sec. 7.** AS 36.05.110 is amended to read:

29 **Sec. 36.05.110. Contracts entered into without advertising.** The fact that a
30 public **construction** contract authorized by law is entered into upon a cost-plus-a-
31 fixed-fee basis or otherwise, without advertising for proposals, does not make

1 AS 36.05.070 - 36.05.110 inapplicable if those sections [THEY] are otherwise
2 applicable to the contract.

3 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 APPLICABILITY. This Act applies to public construction if the public construction is
6 subject to AS 36.05 and if the contract for the public construction is entered into on or after
7 the effective date of this Act. In this section, "public construction" has the meaning given in
8 AS 36.95.010.