

# ALASKA STATE LEGISLATURE

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*REPRESENTATIVE ANDY JOSEPHSON*

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## **HB260: Certificate of Fitness / Unpaid Construction Wages** **Sectional Analysis**

- Sec. 1** Allows for a contractor's certificate of registration under AS 08.18 to be suspended if they are found to have knowingly violated a provision of the Certificate of Fitness statutes, AS 18.62. A first offense would result in a 90-day suspension, and after a second finding it would be permanently revoked.
- Sec. 2** Provides for a \$1,000 administrative fine for an employer or employee who violates a provision of the Certificate of Fitness statutes or regulations. Imposition of the fine requires a written notice, and opportunity to request a timely hearing. The decision of a hearing officer is a final administrative decision. This section repeals and replaces current statute that provides for a \$500 fine only after the violation results in a conviction for a misdemeanor.
- Sec. 3** Adds a new Article 9 to AS 23.10, Labor and Workers' Compensation
- Sec. 23.10.700** A project owner and a contractor are jointly and severally liable for unpaid wages to an employee of the contractor and subcontractors working under that contractor.
- An exception is provided for employees covered by collective bargaining agreements with a grievance mechanism for unpaid wages. Further exceptions are provided for projects that are the project owner's principal residence, residential properties of five or fewer units on a single tract of land, and single unit commercial projects.
- Sec. 23.10.710** An employee of a contractor or subcontractor may bring suit for unpaid wages. The presumption is that a person performing work under a contract is an employee vs. an independent contractor. Before filing suit, the employee must send written notice and allow 21 days for the owner or contractor to remit the wages owed.
- Sec. 23.10.720** A subcontractor must provide payroll records to a project owner or contractor upon request. The records must include sufficient information to ensure the subcontractor has paid in full all wages earned by their employees. This includes

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the name and other contact information for the subcontractor and any subcontractors working under them; names of all workers and whether they are classified as employees or independent contractors, anticipated start date and duration of the work on the project; and an affidavit that attests to whether any party has, within the past five years, been part of a proceeding involving a violation of wage law. Personally identifiable information may not be disclosed except to the extent necessary to comply with the law.

**Sec. 23.10.740** Adds new definitions for “construction contract,” “contractor,” “project owner,” “subcontractor,” and “wages.”

**Sec. 4** Conforming change to the administrative fine added in Sec. 2, adding Certificate of Fitness issues to the jurisdiction of the Office of Administrative Hearings.

**Sec. 5** Adds an uncodified Applicability section, clarifying that this Act only applies to work performed on a contract entered into on or after the effective date.