

CS FOR HOUSE BILL NO. 155(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/8/03

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the submission of payroll information by contractors and
2 subcontractors performing work on a public construction contract; requiring a notice
3 and affidavit regarding the payment of prevailing wages by employers on public
4 construction contracts; providing for the withholding of final payment for public
5 construction contracts; and providing for an effective date."

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

7 * **Section 1.** AS 36.05.040 is amended to read:

8 **Sec. 36.05.040. Filing schedule of employees, wages paid, and other**
9 **information.** All contractors or subcontractors who perform work on a public
10 construction contract for the state or for a political subdivision of the state shall, before
11 the Friday of every second [EACH] week, file with the Department of Labor and
12 Workforce Development a sworn affidavit for the previous reporting period
13 [WEEK], setting out in detail the number of persons employed, wages paid, job

1 classification of each employee, hours worked each day and week, and other
 2 information on a form provided by [THAT] the Department of Labor and Workforce
 3 Development [REQUIRES].

4 * **Sec. 2.** AS 36.05 is amended by adding a new section to read:

5 **Sec. 36.05.045. Affidavit of compliance; withholding of payment.** (a)

6 Before commencing work on a public construction contract, the person entering into
 7 the contract with a contracting agency shall designate a primary contractor for
 8 purposes of this section. Before work commences, the primary contractor shall file a
 9 notice of intent to pay prevailing wages with and pay the appropriate filing fees to the
 10 Department of Labor and Workforce Development. The notice of intent must list all
 11 work to be performed under the public construction contract by each contractor who
 12 will perform any portion of work on the contract and the contract price being paid to
 13 each contractor. The primary contractor shall pay all filing fees for each contractor
 14 performing work on the contract, including a filing fee based on the contract price
 15 being paid for work performed by the primary contractor's employees. The filing fee
 16 payable shall be the sum of all fees calculated for each contractor. The filing fee shall
 17 be one percent of each contractor's contract price. The total filing fee payable by the
 18 primary contractor under this subsection may not exceed \$5,000. There is no fee for a
 19 contract under which the total amount payable by the contracting agency is less than
 20 \$25,000. In this subsection, "contractor" means an employer who is using employees
 21 to perform work on the public construction contract under the contract or a
 22 subcontract.

23 (b) Upon completion of all work on the public construction contract, the
 24 primary contractor shall file an affidavit of wages paid with the Department of Labor
 25 and Workforce Development. The primary contractor and all other contractors
 26 working on the public construction contract shall sign the affidavit on a form provided
 27 by the Department of Labor and Workforce Development.

28 (c) A contracting agency may not release final payment on a public
 29 construction contract until the agency has received verification from the Department
 30 of Labor and Workforce Development that

31 (1) the primary contractor has complied with (a) and (b) of this section

1 and that all other contractors working on the public construction contract have signed
2 the affidavit;

3 (2) the Department of Labor and Workforce Development is not
4 conducting an investigation under AS 36.05.030; and

5 (3) the Department of Labor and Workforce Development has not
6 issued a notice of a violation of this chapter to the primary contractor or any other
7 contractors working on the public construction contract.

8 (d) The notice and filing fee required under (a) of this section may be filed
9 after work has begun if

10 (1) the public construction contract is for work undertaken in
11 immediate response to a disaster emergency declared under AS 26.23; and

12 (2) the notice and fees are filed not later than 14 days after the work
13 has begun.

14 (e) A false statement made on a notice or affidavit required by this section is
15 punishable under AS 11.56.210.

16 * **Sec. 3.** AS 36.05 is amended by adding a new section to read:

17 **Sec. 36.05.900. Definition.** In this chapter, "contracting agency" means the
18 state or a political subdivision of the state that has entered into a public construction
19 contract with a contractor.

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

22 **CURRENT PUBLIC CONSTRUCTION CONTRACTS.** Notwithstanding
23 AS 36.05.045, added by sec. 2 of this Act, a contractor or subcontractor that began work on a
24 public construction contract before July 1, 2003, but has not completed the work before
25 July 1, 2003, shall file a notice of intent to pay prevailing wages on a form provided by the
26 Department of Labor and Workforce Development. The contractor or subcontractor shall file
27 the notice not later than 30 days after the Department of Labor and Workforce Development
28 provides the contractor or subcontractor with a copy of the notice form. The contractor or
29 subcontractor is not required to pay a fee for filing.

30 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 ONLINE PAYROLL REPORTING. Not later than July 1, 2004, the Department of
2 Labor and Workforce Development shall provide for filing of payroll reports as required in
3 AS 36.05.040, amended by sec. 1 of this Act, by secure online electronic filing.

4 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITIONAL PROVISIONS: REGULATIONS. Notwithstanding sec. 8 of this
7 Act, the Department of Labor and Workforce Development may proceed to adopt regulations
8 necessary to implement the changes made by this Act. The regulations take effect under
9 AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant
10 statutory change.

11 * **Sec. 7.** Sections 4 and 6 of this Act take effect immediately under AS 01.10.070(c).

12 * **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect July 1, 2003.