

CS FOR SENATE BILL NO. 111(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/16/03
Referred: Finance

Sponsor(s): SENATE 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 of**
3 **work by employers on public construction contracts; providing for the withholding of**
4 **final payment for public construction contracts; and providing for an effective date."**

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

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

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

1 Development [REQUIRES].

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

3 **Sec. 36.05.045. Notice of work and completion; withholding of payment.**

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

20 (b) Upon completion of all work on the public construction contract, the
21 primary contractor shall file with the Department of Labor and Workforce
22 Development a notice of completion together with payment of any additional filing
23 fees owed due to increased contract amounts. Within 30 days after the department's
24 receipt of the primary contractor's notice of completion, the department shall inform
25 the contracting agency of the amount, if any, to be withheld from the final payment.

26 (c) A contracting agency

27 (1) may release final payment on a public construction contract to the
28 extent that the agency has received verification from the Department of Labor and
29 Workforce Development that

30 (A) the primary contractor has complied with (a) and (b) of this

31 section;

1 (B) the Department of Labor and Workforce Development is
2 not conducting an investigation under this title; and

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

6 (2) shall withhold from the final payment an amount sufficient to pay
7 the department's estimate of what may be needed to compensate the employees of any
8 contractors under investigation on this construction contract, and any unpaid filing
9 fees.

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

12 (1) the public construction contract is for work undertaken in
13 immediate response to an emergency; and

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

16 (e) A false statement made on a notice required by this section is punishable
17 under AS 11.56.210.

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

19 **Sec. 36.05.900. Definitions.** In this chapter,

20 (1) "contracting agency" means the state or a political subdivision of
21 the state that has entered into a public construction contract with a contractor;

22 (2) "public construction" does not include alterations or repairs of less
23 than \$100,000 undertaken by tenants of a building owned or controlled by the state for
24 government or public use after the initial construction or acquisition of the building by
25 the state, notwithstanding AS 36.95.010.

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

28 **CURRENT PUBLIC CONSTRUCTION CONTRACTS.** Notwithstanding
29 AS 36.05.045, added by sec. 2 of this Act, a contractor or subcontractor that began work on a
30 public construction contract before July 1, 2003, but has not completed the work before
31 July 1, 2003, shall file a notice of work with the Department of Labor and Workforce

1 Development. The contractor or subcontractor shall file the notice not later than 30 days after
2 the Department of Labor and Workforce Development provides the contractor or
3 subcontractor with a copy of the notice form. The contractor or subcontractor is not required
4 to pay a fee for filing.

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

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

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

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

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

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