

Introduced: 3/8/63
Referred: Labor and
Management

1 IN THE HOUSE

BY MR. GRAVEL

2

HOUSE BILL NO. 195

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRD LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act regulating construction and specialty
7 contracting; and providing for an effective
8 date."

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

10

* Section 1. AS 08 is amended by adding a new chapter to read:

11

CHAPTER 26. CONTRACTORS.

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ARTICLE 1. BOARD OF CONTRACTORS.

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Sec. 08.26.010. CREATION OF BOARD. There is created a
14 Board of Contractors.

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Sec. 08.26.020. APPOINTMENT AND TERM OF OFFICE. The
17 Board consists of five members. Members are appointed by the
18 governor and confirmed by the legislature for staggered terms
19 of three years. A member serves at the pleasure of the
governor.

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Sec. 08.26.030. QUALIFICATIONS OF MEMBERS. The governor
22 shall appoint each member on the basis of his interest in
23 public affairs, his good judgment, his knowledge and ability
24 in the construction business, and with a view to providing
diversity of interest and points of view in the membership.

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Sec. 08.26.040. BOARD MEETINGS AND OFFICERS. (a) The
27 board shall hold a regular annual meeting. The board may
28 hold special meetings at the call of the chairman or of three
29 members, with prior approval of the governor.

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(b) A majority of the board constitutes a quorum for

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conducting business.

(c) The board shall elect its officers.

Sec. 08.26.050. COMPENSATION FOR BOARD MEMBERS. A member is entitled to per diem allowances and transportation expenses allowed by law and paid members of other state examining boards.

Sec. 08.26.060. DUTIES OF THE BOARD. The board shall

(1) pass on qualifications of applicants;

(2) prepare and grade examinations;

(3) on its own motion or on request, investigate allegations that a person has violated a provision of this chapter;

(4) certify persons entitled to be certified under this chapter.

Sec. 08.26.070. EXECUTIVE DIRECTOR. The board may, with the approval of the governor, employ an executive director and investigators and advisors. The executive director's duty is to assist the board in performing its duties under sec. 60(1), (2), and (3), of this chapter.

Sec. 08.26.080. BOARD REGULATIONS. (a) The board shall adopt procedural regulations describing its investigatory procedure.

(b) The board shall adopt substantive regulations

(1) classifying the contracting business for the purpose of issuing certificates only to persons who qualify in one or more classifications;

(2) specifying subjects to be covered by the examination, and specifying what part, if any, of the examination is to be oral;

- 1 (3) specifying the content of application forms;
2 (4) defining ethical conduct in the contracting
3 business.

4 Sec. 08.26.090. DUTIES OF THE DEPARTMENT. The depart-
5 ment shall furnish administrative services for the board,
6 including

- 7 (1) collecting fees and issuing receipts;
8 (2) keeping records of receipts and disbursements;
9 (3) distributing and receiving application forms;
10 (4) notifying an applicant whether or not the
11 board has accepted his application;
12 (5) designating the date on which annual examina-
13 tions are to be held;
14 (6) at least 30 days before an examination is to
15 be held, publishing notice that it is to be held;
16 (7) printing examinations;
17 (8) providing space for holding examinations;
18 (9) proctoring examinations;
19 (10) notifying applicants of the results of the
20 examination;
21 (11) printing and distributing uniform licenses
22 and certificates, duplicate licenses and certificates to
23 replace lost ones, and pocket size recognition cards;
24 (12) sending notice, before December 1 of each
25 year, that licenses and certificates must be renewed;
26 (13) keeping a current register of licensees certi-
27 ficates;
28 (14) employing secretarial assistants;
29 (15) printing and distributing forms and informa-

1 tional bulletins;

2 (16) maintaining records and completed examina-
3 tions.

4 (17) issuing licenses to persons who qualify
5 under this chapter.

6 Sec. 08.26.100. DEPARTMENT REGULATIONS. The department
7 shall adopt procedural regulations describing

8 (1) how it conducts an examination;

9 (2) how a person applies to take an examination or
10 applies for a license.

11 Sec. 08.26.110. APPLICABILITY OF ADMINISTRATIVE PRO-
12 CEDURE ACT. The Administrative Procedure Act (AS 44.62)
13 applies to board proceedings under this chapter.

14 ARTICLE 2. LICENSES

15 Sec. 08.26.130. LICENSE REQUIRED. No person may be a
16 contractor, offer to contract, or submit a bid for a contract
17 unless he is licensed under this chapter.

18 Sec. 08.26.140. WHO IS ENTITLED TO A LICENSE. (a) A
19 person is entitled to a license who is 19 years of age and
20 whose license is not suspended or revoked.

21 (b) He is entitled to receive his license when he

22 (1) completes application forms and returns them
23 to the department;

24 (2) pays the application fee for a license.

25 Sec. 08.26.150. ANNUAL RENEWAL. To remain licensed a
26 person must pay the renewal fee before February 1 of each
27 year. A person who allows his license to lapse is entitled
28 to have it renewed.

29 ARTICLE 3. CERTIFICATION

1 Sec. 08.26.170. CERTIFICATE. No person may represent
2 himself to the public as a certified contractor, or in other
3 ways indicate to the public that he is an especially quali-
4 fied contractor, unless he is certified under this chapter.
5 A person may only represent himself as an especially quali-
6 fied contractor in the field in which he is certified.

7 Sec. 08.26.180. ORGANIZATION CERTIFICATE. An associa-
8 tion, partnership, or corporation is entitled to be certified
9 so long as all its employees who work in a supervisory
10 position and at least one of its officers is a certified
11 contractor. It may indicate to the public that it is certi-
12 fied in as many fields as it has certified supervisory
13 employees. It is required to pay the organization fee.

14 Sec. 08.26.190. EXAMINATION. A person who passes the
15 examination given under this chapter is entitled to be
16 certified under this chapter.

17 Sec. 08.26.200. CONTENT OF EXAMINATION. The board
18 shall design examinations so as to disqualify a person who
19 has no special competence in contracting work.

20 Sec. 08.26.210. ADMINISTRATION OF EXAMINATION. The
21 department shall offer examinations at least once a year and
22 more frequently if more than two persons qualified to take
23 an examination petition for an additional examination.
24 Examinations shall be so administered that one who grades a
25 written examination does not know whose paper he is grading.
26 The department shall maintain files of examinations. A
27 person is entitled to inspect his examination paper for the
28 purpose of challenging the propriety of its questions, the
29 method of grading, or the accuracy of grading. Every two

1 years the department shall have published and sell at cost
2 copies of examinations for the preceding two years.

3 Sec. 08.26.220. RE-EXAMINATION. A person who fails an
4 examination may apply for a subsequent examination, but shall
5 pay the application fee each time he applies. He may not
6 petition for an additional examination under sec. 200 of
7 this chapter, but may take one if it is offered.

8 Sec. 08.26.230. QUALIFICATION FOR EXAMINATION. A per-
9 son is entitled to take the examination who

10 (1) has a reputation in his community for honesty
11 and fair dealing;

12 (2) is licensed under this chapter;

13 (3) completes application forms and returns them
14 to the department within a time specified in a regulation of
15 the department;

16 (4) pays the application fee for a certificate.

17 Sec. 08.26.240. ANNUAL RENEWAL. A person who passes
18 the examination is certified without payment of further fees.
19 To remain certified, a person must pay the renewal fee before
20 February 1 of each year. A person who allows his certificate
21 to lapse is entitled to have it renewed without taking an
22 examination unless his license has lapsed more than five
23 years, in which case he is required to take an examination
24 if the board finds that additional evidence of his continued
25 fitness to practice is required.

26 Sec. 08.26.250. OUT-OF-STATE LICENSEES. (a) A person
27 who is licensed or certified in another state or nation is
28 entitled to be certified in Alaska without examination if he

29 (1) meets qualifications for examination specified

1 in sec. 230 of this chapter;

2 (2) has passed an examination that covers substan-
3 tially the same subjects the Alaska examination covers;

4 (3) returns completed application forms to the
5 department;

6 (4) pays the out-of-state certification fee.

7 (b) A person who qualifies under (a) of this section
8 is certified without payment of further fee. He is subject
9 to the annual renewal provisions in sec. 240 of this chapter.

10 Sec. 08.26.260. FEES. (a) The application fee for a
11 license is \$15.

12 (b) The renewal fee for a license is \$15.

13 (c) The application fee for certification is \$100.

14 (d) The renewal fee for certification is \$100.

15 (e) The out-of-state certification fee is \$200.

16 (f) The organization fee is \$100.

17 Sec. 08.26.270. DEPOSIT OF MONEY. The department shall
18 deposit money collected under this chapter in the general
19 fund.

20 ARTICLE 4. ENFORCEMENT.

21 Sec. 08.26.290. SUSPENSION AND REVOCATION OF LICENSE.

22 (a) The superior court shall suspend or revoke the license
23 of a licensee who

24 (1) wilfully breaches a contract by supplying
25 material or workmanship of a quality inferior to that called
26 for by the contract, for the purpose of gain;

27 (2) does contract work he should know is unsound,
28 unless done pursuant to specifications of a licensed archi-
29 tect or engineer, or of the person for whom he is doing the

1 work;

2 (3) fails to provide minimum safety measures re-
3 quired by statute, regulation, or ordinance;

4 (4) diverts funds or property received for a pro-
5 ject for another purpose, unless he has other funds or
6 property available to timely complete the project;

7 (5) violates a law relative to the contracting
8 business or to persons employed in the contracting business;

9 (6) does or fails to do an act, as a contractor,
10 knowing the act might result in substantial injury to
11 another.

12 (b) The board, with the assistance of the Department of
13 Law, may institute revocation or suspension proceedings
14 under this section.

15 Sec. 08.26.300. SUSPENSION AND REVOCATION OF CERTIFI-
16 CATE. (a) The board shall suspend or revoke the certificate
17 of a person who

18 (1) does an act which is grounds for revoking or
19 suspending a license;

20 (2) goes bankrupt as a result of the way he oper-
21 ates his contracting business;

22 (3) misrepresents a material fact in obtaining a
23 certificate;

24 (4) engages in unfair or unethical conduct as a
25 contractor.

26 (b) If a person's license is suspended or revoked under
27 sec. 290 of this chapter, his certificate is automatically
28 suspended or revoked until the license is reinstated.

29 Sec. 08.26.310. TREBLE DAMAGES. In a civil action, a

1 contractor who does an act as a contractor for which he is
2 civilly liable is liable for three times the amount of
3 damages for which he would be liable in the absence of this
4 section.

5 Sec. 08.26.320. PENALTY. A person who violates secs.
6 130, 170, or 180 of this chapter is guilty of a misdemeanor.

7 ARTICLE 5. MISCELLANEOUS PROVISIONS.

8 Sec. 08.26.340. STATE CONTRACTS. The state may not
9 accept bids from a contractor unless he is certified under
10 this chapter. This section does not apply to a state agency
11 for a project for which it prequalifies contractors, or for
12 which it negotiates a contract without bid.

13 ARTICLE 6. GENERAL PROVISIONS.

14 Sec. 08.26.360. DEFINITIONS. In this chapter

15 (1) "contractor"

16 (A) means a person who, for compensation, in
17 a responsible capacity,

18 (i) constructs, alters, repairs, moves,
19 or wrecks a fixed structure, road, or railroad;

20 (ii) excavates or develops a site;

21 (iii) installs, changes, or repairs
22 plumbing, heating and air conditioning;

23 (B) includes a person who does any of the
24 things mentioned in (1)(A) of this section on his own
25 property intending at the time to sell the property;

26 (C) does not include

27 (1) a person who does any of the things
28 mentioned in (1)(A) of this section for wages,
29 under the supervision of a person licensed under

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this chapter;

(ii) an employee of the state or its political subdivisions;

(iii) an employee of a public utility doing construction and maintenance work incidental to the operation of the public utility;

(iv) a person who sells or installs finished products, materials, or articles of merchandise which are not fabricated into and do not become a fixed part of a structure;

(v) a person doing work related to or done in connection with logging or mining;

(vi) the owner or lessee, or his employee, when doing construction or maintenance work incidental to the discovery and development of a petroleum or gas well;

(2) "contract" means

(A) an agreement to perform work as a contractor;

(B) performing work as a contractor;

(3) "board" means the Board of Contractors;

(4) "department" means the Department of Commerce.

Sec. 08.26.370. SHORT TITLE. This chapter may be cited as the Board of Contractors Act.

* Sec. 2. The governor shall appoint, for the initial board, one member for one year, two for two years, and two for three years.

* Sec. 3. This Act takes effect on July 1, 1963.