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and Management

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1 IN THE HOUSE

2 HOUSE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to hiring requirements under state
7 oil and gas and mineral leases; and providing for an
8 effective date."

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

10 * Section 1. PURPOSE. It is declared to be the policy of this state in
11 the management of oil and gas and mineral resources located upon and in
12 state-owned property, to seek and accomplish development of these resources
13 so as to provide maximum employment opportunities for its bona fide residents.

14 * Sec. 2. AS 38.05 is amended by adding new sections to read:

15 Sec. 38.05.176. APPLICABILITY. The provisions in secs. 176 - 179
16 of this chapter apply to all employment with respect to the exploration
17 for, or production, transportation, or marketing of oil and gas or
18 other minerals at or from premises leased from the state, including
19 right-of-way leases, so long as the activity takes place inside the
20 state and is wholly or in substantial part directly attributable to
21 operations at the leased premises.

22 Sec. 38.05.177. PREFERENTIAL HIRING. (a) The commissioner shall
23 cause to be incorporated into every oil and gas lease, mineral lease,
24 or right-of-way lease for the transportation of oil and gas or minerals,
25 to which the state is a party a provision requiring the hiring of bona
26 fide Alaska residents, in accordance with secs. 176 - 179 of this
27 chapter. The provision shall, by its express terms, condition the
28 rights of the lessee under the lease upon his continuing compliance
29 with it, and the continuing compliance of any assignee, sublessee, or

1 contractor of the lessee, or any person doing work for or in conjunction
2 with the lessee with respect to the leased premises. The preferential
3 hiring provision shall require that the lessee, with respect to opera-
4 tions described in sec. 176 of this chapter,

5 (1) maintain a work force during each month of which at
6 least 70 per cent, based upon the monthly weighted average, consists of
7 bona fide Alaska residents during the first year of the lease;

8 (2) maintain a work force during each month of which at
9 least 85 per cent, based upon the monthly weighted average, consists of
10 bona fide Alaska residents during the second year of the lease;

11 (3) maintain a work force during each month of which at
12 least 95 per cent, based upon the weighted monthly average, consists of
13 bona fide Alaska residents during the third year of the lease and
14 thereafter;

15 (4) maintain an on-the-job training program approved by the
16 Department of Labor to assure a sufficient pool of qualified Alaska
17 residents to comply with (a)(1), (2) and (3) of this section;

18 (5) pay to the state in liquidated damages an amount equal
19 to 50 cents per acre of the leased premises involved in which the
20 noncompliance occurs, for each day during which the requirements of
21 (a)(1), (2) and (3) of this section are not complied with, unless
22 compliance is excused in accordance with (b) of this section;

23 (6) to submit to the Department of Labor those monthly
24 reports relating to employment as may be required by the department to
25 assure compliance with the provisions of secs. 176 - 179 of this
26 chapter;

27 (7) to incorporate into each agreement with an assignee,
28 sublessee, contractor or other person doing work for or in conjunction
29 with the lessee a provision requiring compliance with (a)(1), (2), (3)

1 and (4) of this section which provision shall be expressly made for the
2 benefit of the state and shall require the payment by this person of
3 liquidated damages to the state in accordance with (a)(5) of this
4 section and shall require the filing of reports to the Department of
5 Labor in accordance with (a)(6) of this section.

6 (b) The Department of Labor shall certify those persons coming
7 under secs. 176 - 179 of this chapter who have met the requirements of
8 (a)(1), (2), (3) and (4) of this section and submit a list of persons
9 certified to the commissioner. If the Department of Labor refuses to
10 certify a person due to noncompliance with secs. 176 - 179 of this
11 chapter it shall schedule a hearing with the person, who must appear
12 either in person or through an attorney or agent, to show cause why he
13 should not be subject to the provisions of (a)(5) of this section. If
14 cause can be shown that failure to comply was due to

15 (1) a temporary and emergency condition or other exigencies
16 for which the individual was not responsible and that the person noti-
17 fied the Department of Labor of the emergency or other exigencies upon
18 their discovery and took those measures reasonably calculated to
19 correct the condition; or

20 (2) a failure of the labor force to supply enough bona fide
21 residents of Alaska and that before employing other persons in such
22 numbers as to preclude compliance with (a)(1), (2) and (3) of this
23 section the person informed the Department of Labor of the situation
24 in writing and submitted a list of names and addresses of the persons
25 to be employed and received waivers for these employees from the
26 Department of Labor; the Department of Labor shall issue temporary
27 certification and require a review hearing within the time decided in
28 the original hearing to be a reasonable time to permit correction of
29 the situation causing noncompliance.

1 (c) The Department of Labor shall maintain a file consisting of
2 names of bona fide Alaska residents seeking the type of employment
3 covered by secs. 176 - 179 of this chapter and resident persons enrolled
4 in approved on-the-job training programs and shall not grant waivers
5 as provided for in (b) of this section for any position for which bona
6 fide residents or on-the-job trainees are available. If residents are
7 not available for the job sought to be filled the Department of Labor
8 shall grant the waiver requested under (b) of this section for an
9 initial period not to exceed 30 days.

10 Sec. 38.05.178. REGULATIONS AND HEARINGS. (a) The Department of
11 Labor and the Department of Natural Resources shall from time to time
12 issue, amend, or rescind regulations as considered necessary to carry
13 out the provisions of secs. 176 - 179 of this chapter.

14 (b) Regulations and hearings under secs. 176 - 179 of this chapter
15 are subject to the Administrative Procedure Act (AS 44.62).

16 Sec. 38.05.179. DEFINITIONS. In secs. 176 - 179 of this chapter

17 (1) "bona fide resident of Alaska" or "resident" means

18 (A) a person who has been physically present in the
19 State of Alaska, except for brief intervals, for a period of one
20 year; or

21 (B) a person who has not been present in the state for
22 a period of one year, except for brief intervals, but shows by all
23 attending circumstances that his intent is to make Alaska his
24 permanent residence and the Department of Labor has certified that
25 the attending circumstances show this intent;

26 (2) "work force" means all persons employed on or with
27 respect to premises covered by an oil and gas lease, a mineral lease,
28 or a right-of-way lease for the transportation of oil and gas or other
29 minerals who are paid on an hourly or piecework basis, or who perform

1 unskilled, semiskilled or skilled labor or any trade or craft, regard-
2 less of how paid, or who are engaged in the direct supervision of
3 employees at the situs of the work, but does not include other profes-
4 sional or managerial personnel.

5 * Sec. 3. This Act takes effect on the day after its passage and approval
6 or on the day it becomes law without approval.

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