

Original sponsor: Rules Committee by request
of the Governor

Offered: 3/13/72
Referred: Commerce

1 IN THE HOUSE BY THE LABOR AND MANAGEMENT COMMITTEE
2 CS FOR HOUSE BILL NO. 701
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to public construction contracts."

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

8 * Section 1. AS 36.05.010 is amended to read:

9 Sec. 36.05.010. WAGE RATES ON PUBLIC CONSTRUCTION. A contractor
10 or subcontractor who performs work on public construction in the state,
11 as defined by AS 36.95.010(3), shall pay not less than the prevailing
12 rate of wages for work of a similar nature in the region in which the
13 work is done.

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

15 Sec. 36.05.015. APPLICABILITY TO MOBILE, MODULAR OR PREFABRICATED
16 BUILDING UNITS. (a) A manufacturer contracting with the state or a
17 political subdivision of the state for the manufacture and sale within
18 the state of made-to-order mobile, modular, or prefabricated building
19 units, which are purchased by the state or a political subdivision of
20 the state to be used as a substitute for the on-site construction of
21 permanent buildings, shall pay not less than the prevailing wage for
22 work of a similar nature in the region in which the manufacturing is
23 done.

24 (b) The provisions of (a) of this section apply to any contract
25 between a contractor or subcontractor with the state and a manufacturer
26 who would be covered by (a) of this section if contracting directly with
27 the state.

28 * Sec. 3. AS 36.05.030 is amended to read:

29 Sec. 36.05.030. AUTHORITY. (a) The Department of Labor [PUBLIC

1 WORKS] has the authority to determine the prevailing wage, and whether
2 or not secs. 10 - 110 [40] of this chapter are being violated. The
3 department may when necessary for the enforcement of secs. 10 - 110

4 (1) conduct investigations and hold hearings concerning
5 wages;

6 (2) compel the attendance of witnesses and the production
7 of books, papers and documents;

8 (3) promulgate regulations.

9 (b) If a person violates secs. 10 - 110 [40] of this chapter the
10 attorney general shall, when requested [INSTRUCTED] by the Department
11 of Labor, [PUBLIC WORKS, TAKE IMMEDIATE STEPS TO] enforce these provi-
12 sions.

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

14 Sec. 36.05.035. NOTIFICATION OF CONTRACT AWARDS. Upon awarding
15 a public construction contract, the state or a political subdivision of
16 the state shall

17 (1) immediately notify the commissioner of labor of the
18 amount of the contract, the effective date of the contract, the identity
19 of the contractor and all subcontractors, the site or sites of con-
20 struction and provide a project description; and

21 (2) verify that the bonding requirements of ch. 25 of this
22 title have been met and that the requirements of AS 08.18 have been met.

23 * Sec. 5. AS 36.05.040 is repealed and re-enacted to read:

24 Sec. 36.05.040. FILING SCHEDULE OF EMPLOYEES, WAGES PAID AND OTHER
25 INFORMATION. All contractors or subcontractors who perform work on a
26 public construction contract for the state or for a political subdivi-
27 sion of the state shall, before the Wednesday of each week, file with
28 the Department of Labor a sworn affidavit for the previous week, setting
29 out in detail the number of men employed, wages paid, job classification

1 of each employee, hours worked each day and week, and other information
2 which the Department of Labor requires.

3 * Sec. 6. AS 36.05.050 is amended to read:

4 Sec. 36.05.050. HOURS TO CONSTITUTE DAY'S WORK. (a) Eight hours
5 in any calendar day is a day's work on work done for the state or a
6 political subdivision of [MUNICIPALITY WITHIN] the state, subject to
7 (b) of this section.

8 (b) Work done by contract or subcontract on public construction
9 [A BUILDING OR IMPROVEMENT, OR WORK ON A ROAD, BRIDGE, STREET, ALLEY OR
10 BUILDING] for the state or a political subdivision of the state
11 [MUNICIPALITY] shall be done under this section, except that in cases
12 of extraordinary emergency the hours for work may be extended. For
13 this purpose this section is made a part of all contracts, subcontracts
14 or agreements for work done for the state or a political subdivision of
15 [MUNICIPALITY IN] the state.

16 * Sec. 7. AS 36.05.060 is amended to read:

17 Sec. 36.05.060. PENALTY FOR VIOLATION [OF SEC. 50] OF THIS
18 CHAPTER. A contractor [, SUBCONTRACTOR, OR AGENT OF A CONTRACTOR OR
19 SUBCONTRACTOR, FOREMAN OR EMPLOYER,] who violates [SEC. 50 OF] this
20 chapter, is guilty of a misdemeanor, and upon conviction is punishable
21 by a fine of not less than \$100 [\$50] nor more than \$1,000 [\$500], or
22 by imprisonment for not less than 10 days nor more than 90 days, or by
23 both. Each day a violation exists constitutes a separate offense.

24 * Sec. 8. AS 36.05.070(a) is amended to read:

25 (a) The advertised specifications for a public construction
26 contract exceeding \$2,000 to which the state or a political subdivision
27 of the state is a party [FOR THE CONSTRUCTION, ALTERATION, OR REPAIR,
28 INCLUDING PAINTING AND DECORATING OF PUBLIC BUILDINGS OR PUBLIC WORKS
29 OF THE STATE OR A POLITICAL SUBDIVISION,] which requires or involves

1 the employment of mechanics, laborers, or field surveyors shall contain
2 a provision stating the minimum wages to be paid various classes of
3 laborers, mechanics, or field surveyors.

4 * Sec. 9. AS 36.05.070(b) is repealed.

5 * Sec. 10. AS 36.05.070(c)(4) is amended to read:

6 (4) the state or a political subdivision shall [MAY] with-
7 hold so much of the accrued payments as is necessary to pay to
8 laborers, mechanics, or field surveyors employed by the contractor or
9 subcontractors the difference between (A) the rates of wages required
10 by the contract to be paid laborers, mechanics, or field surveyors on
11 the work, and (B) the rates of wages in fact received by laborers,
12 mechanics or field surveyors.

13 * Sec. 11. AS 36.05.090 is amended to read:

14 Sec. 36.05.090. PAYMENT OF WAGES FROM WITHHELD PAYMENTS AND
15 LISTING CONTRACTORS WHO VIOLATE CONTRACTS. (a) The state disbursing
16 officer in the case of a state contract and the local fiscal officer
17 in the case of a [LOCAL] political subdivision contract shall pay
18 directly to laborers, mechanics or field surveyors from accrued pay-
19 ments withheld under the terms of the contract the wages due laborers,
20 mechanics or field surveyors under sec. 70 of this chapter.

21 (b) The state disbursing officer or the local fiscal officer
22 shall distribute to all departments of the state government and to all
23 political subdivisions of the state [LOCAL GOVERNMENTAL BODIES] a list
24 giving the names of persons who have disregarded their obligations to
25 employees [AND SUBCONTRACTORS]. No person [CONTRACT MAY BE AWARDED TO
26 THE PERSONS] appearing on this list and no [OR TO A] firm, corporation,
27 partnership or association in which the person has an interest may work
28 as a contractor or subcontractor on a public construction contract for
29 the state or a political subdivision of the state until three years

1 after the date of publication of the list. If the accrued payments
2 withheld under the contract are insufficient to reimburse all the
3 laborers, mechanics, or field surveyors with respect to whom there
4 has been a failure to pay the wages required under sec. 70 of this
5 chapter, the laborers, mechanics or field surveyors have the right of
6 action or intervention or both against the contractor and his sureties
7 conferred by law upon persons furnishing labor or materials, and in
8 the proceedings it is not a defense that the laborers, mechanics or
9 field surveyors accepted or agreed to accept less than the required
10 rate of wages or voluntarily made refunds.

11 * Sec. 12. AS 36.05.100 is amended to read:

12 Sec. 36.05.100. EFFECT OF SECS. 70 - 110 [120] OF THIS CHAPTER
13 ON OTHER LAWS. Sections 70 - 110 [120] of this chapter do not super-
14 sede or impair authority granted by state law to provide for the
15 establishment of specific wage rates.

16 * Sec. 13. AS 36.05.120 is repealed.

17 * Sec. 14. AS 36.10.010 is amended to read:

18 Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of
19 contracts let by the state or a political subdivision of the state
20 [, BOROUGHs, CITIES AND SCHOOL DISTRICTS] for construction, repair,
21 preliminary surveys, engineering studies or maintenance work, 95 per
22 cent residents shall be employed where they are available and qualified.
23 If 10 or fewer persons are employed under the contract, then 90 per
24 cent residents shall be employed where they are available and qualified.
25 In all cases of public works projects, preference shall be given to
26 residents.

27 * Sec. 15. AS 36.10 is amended by adding a new section to read:

28 Sec. 36.10.015. APPLICABILITY TO MOBILE, MODULAR OR PREFABRICATED
29 BUILDING UNITS. (a) A manufacturer contracting with the state or a

1 political subdivision of the state, for the manufacture and sale within
2 the state of made-to-order mobile, modular, or prefabricated building
3 units which are purchased by the state or a political subdivision of
4 the state to be used as a substitute for the on-site construction of
5 permanent buildings, shall meet the residential employment preference
6 specified in sec. 10 of this chapter.

7 (b) The provisions of sec. 10 of this chapter apply to any con-
8 tract between a contractor or subcontractor with the state and a
9 manufacturer who would be covered under (a) of this section if con-
10 tracting directly with the state.

11 * Sec. 16. AS 36.10.050 is repealed.

12 * Sec. 17. AS 36.10.090 is amended to read:

13 Sec. 36.10.090. PUBLICATION OF LIST OF VIOLATORS. The commis-
14 sioner of labor shall distribute to all departments and agencies of
15 the state government and to all political subdivisions of the state
16 [LOCAL GOVERNMENTS] a list of the names of persons or firms convicted
17 of a violation of this chapter. No [CONTRACT MAY BE AWARDED TO A]
18 person appearing on the list and no [OR TO A] firm, corporation,
19 partnership or association in which the person has an interest may work
20 as a contractor or subcontractor on a public construction contract for
21 the state or a political subdivision until after three years from the
22 date of publication of the list.

23 * Sec. 18. AS 36.10.110 is repealed.

24 * Sec. 19. AS 36.10 is amended by adding a new section to read:

25 Sec. 36.10.120. REGULATIONS. The Department of Labor may when
26 necessary to enforce this chapter

27 (1) conduct investigations and hold hearings relating to
28 employment preference;

29 (2) compel the attendance of witnesses and the production

1 of books, papers and documents;

2 (3) promulgate regulations.

3 * Sec. 20. AS 36.10 is amended by adding a new section to read:

4 Sec. 36.10.125. ENFORCEMENT. The attorney general shall, when
5 requested by the Department of Labor, enforce the provisions of this
6 chapter. The attorney general may obtain a court order prohibiting
7 a contractor or subcontractor violating this chapter from continuing
8 to work on existing public construction contracts of the state or a
9 political subdivision of the state. The state or political subdivision
10 of the state may prosecute the work to completion by contract or other-
11 wise, and the contractor or subcontractor and his sureties are liable
12 for excess costs for completing the work.

13 * Sec. 21. AS 36.25.010(a) is amended to read:

14 (a) Before a contract exceeding \$2,000 for the construction,
15 alteration, or repair of a public building or public work of the state
16 or a political subdivision of the state is awarded to a general or
17 specialty contractor, the contractor shall furnish to the state or a
18 political subdivision of the state the following bonds, which become
19 binding upon the award of the contract to that contractor:

20 (1) a performance bond with a corporate surety qualified to
21 do business in the state, or at least two individual sureties who shall
22 each justify in a sum equal to the amount of the bond; the amount of
23 the performance bond shall be equivalent to the amount of the payment
24 bond;

25 (2) a payment bond with a corporate surety qualified to do
26 business in the state, or at least two individual sureties who shall
27 each justify in a sum equal to the amount of the bond for the protection
28 of all persons who supply labor and material in the prosecution of the
29 work provided for in the contract; when the total amount payable by

1 the terms of the contract is not more than \$1,000,000, the payment bond
2 shall be in a sum of one-half the total amount payable by the terms of
3 the contract; when the total amount payable by the terms of the con-
4 tract is more than \$1,000,000 and not more than \$5,000,000, the payment
5 bond shall be in a sum of 40 per cent of the total amount payable by
6 the terms of the contract; when the total amount payable by the terms
7 of the contract is more than \$5,000,000, the payment bond shall be in
8 the sum of \$2,500,000.

9 * Sec. 22. AS 36.25.020(c) is amended to read:

10 (c) A suit brought under this section shall be brought in the
11 name of the state or the political subdivision of the state for the
12 use of the person suing in the superior court. No suit may be started
13 after the expiration of one year after the date of final settlement of
14 the contract. The state or political subdivision of the state is not
15 liable for costs or expenses of the suit.

16 * Sec. 23. AS 36 is amended by adding a new chapter to read:

17 Sec. 36.95.010. DEFINITIONS. In this title unless the context
18 requires otherwise

19 (1) "contractor" means the contractor including the sub-
20 contractor;

21 (2) "laborers, mechanics, or field surveyors" means a
22 person who engages in work which is basically physical or unskilled in
23 nature; or who engages in work, requiring the use of tools or machines,
24 which basically consists of the shaping and working of materials into
25 some type of structure, machine or other object; or who engages in
26 outdoor tasks related to the operation of finding and delineating
27 contour, dimensions, position, topography, as of any part of the earth's
28 surface, by preparation of measured plan or description of any area or
29 other portion of country or of road or line through any area or other

1 portion of country;

2 (3) "public construction" or "public works" means the
3 on-site erection, rehabilitation, alteration, extension or repair,
4 including painting or redecorating of buildings, of highways or other
5 improvements to real property under contract for the state or a
6 political subdivision of the state;

7 (4) "qualified" means one who, except for apprentices, is a
8 journeyman mechanic in his particular trade;

9 (5) "resident" means a person who has maintained his
10 domicile in the state for not less than one year immediately preceding
11 his employment on public construction; domicile is the true and
12 permanent home of a person from which he has no present intention of
13 removing and to which he intends to return whenever he is away;

14 (6) "state or a political subdivision of the state" means
15 any state department, state agency, state university, borough, city,
16 village, school district or other state subdivision;

17 (7) "wages" includes fringe benefits.
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