

Original sponsor: Rules Committee by request
of the Governor

Offered: 6/8 /72
Referred: Rules

1 IN THE HOUSE BY THE LABOR AND MANAGEMENT COMMITTEE
2 SENATE CS FOR 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 36.05.030 is amended to read:

15 Sec. 36.05.030. AUTHORITY. (a) The Department of Labor [PUBLIC
16 WORKS] has the authority to determine the prevailing wage, and whether
17 or not secs. 10 - 110 [40] of this chapter are being violated. The
18 department may when necessary for the enforcement of secs. 10 - 110

19 (1) conduct investigations and hold hearings concerning
20 wages;

21 (2) compel the attendance of witnesses and the production
22 of books, papers and documents;

23 (3) promulgate regulations.

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

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

29 Sec. 36.05.035. NOTIFICATION OF CONTRACT AWARDS. Upon awarding

1 a public construction contract, the state or a political subdivision of
2 the state shall

3 (1) immediately notify the commissioner of labor of the
4 amount of the contract, the effective date of the contract, the identity
5 of the contractor and all subcontractors, the site or sites of con-
6 struction and provide a project description; and

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

10 * Sec. 4. AS 36.05.040 is repealed and re-enacted to read:

11 Sec. 36.05.040. FILING SCHEDULE OF EMPLOYEES, WAGES PAID AND OTHER
12 INFORMATION. All contractors or subcontractors who perform work on a
13 public construction contract for the state or for a political subdivi-
14 sion of the state shall, before the Friday of each week, file with
15 the Department of Labor a sworn affidavit for the previous week, setting
16 out in detail the number of men employed, wages paid, job classification
17 of each employee, hours worked each day and week, and other information
18 which the Department of Labor requires.

19 * Sec. 5. AS 36.05.050 is amended to read:

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

24 (b) Work done by contract or subcontract on public construction
25 [A BUILDING OR IMPROVEMENT, OR WORK ON A ROAD, BRIDGE, STREET, ALLEY OR
26 BUILDING] for the state or a political subdivision of the state
27 [MUNICIPALITY] shall be done under this section, except that in cases
28 of extraordinary emergency the hours for work may be extended. For
29 this purpose this section is made a part of all contracts, subcontracts

1 or agreements for work done for the state or a political subdivision of
2 [MUNICIPALITY IN] the state.

3 * Sec. 6. AS 36.05.060 is amended to read:

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

11 * Sec. 7. AS 36.05.070(a) is amended to read:

12 (a) The advertised specifications for a public construction
13 contract exceeding \$2,000 to which the state or a political subdivision
14 of the state is a party [FOR THE CONSTRUCTION, ALTERATION, OR REPAIR,
15 INCLUDING PAINTING AND DECORATING OF PUBLIC BUILDINGS OR PUBLIC WORKS
16 OF THE STATE OR A POLITICAL SUBDIVISION,] which requires or involves
17 the employment of mechanics, laborers, or field surveyors shall contain
18 a provision stating the minimum wages to be paid various classes of
19 laborers, mechanics, or field surveyors.

20 * Sec. 8. AS 36.05.070(c)(4) is amended to read:

21 (4) the state or a political subdivision shall[MAY] with-
22 hold so much of the accrued payments as is necessary to pay to
23 laborers, mechanics, or field surveyors employed by the contractor or
24 subcontractors the difference between

25 (A) the rates of wages required by the contract to
26 be paid laborers, mechanics, or field surveyors on the work, and

27 (B) the rates of wages in fact received by laborers,
28 mechanics or field surveyors.

29 * Sec. 9. AS 36.05.090 is amended to read:

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

8 (b) The state disbursing officer or the local fiscal officer
9 shall distribute to all departments of the state government and to all
10 political subdivisions of the state [LOCAL GOVERNMENTAL BODIES] a list
11 giving the names of persons who have disregarded their obligations to
12 employees [AND SUBCONTRACTORS]. No person [CONTRACT MAY BE AWARDED TO
13 THE PERSONS] appearing on this list and no [OR TO A] firm, corporation,
14 partnership or association in which the person has an interest may work
15 as a contractor or subcontractor on a public construction contract for
16 the state or a political subdivision of the state until three years
17 after the date of publication of the list. If the accrued payments
18 withheld under the contract are insufficient to reimburse all the
19 laborers, mechanics, or field surveyors with respect to whom there
20 has been a failure to pay the wages required under sec. 70 of this
21 chapter, the laborers, mechanics or field surveyors have the right of
22 action or intervention or both against the contractor and his sureties
23 conferred by law upon persons furnishing labor or materials, and in
24 the proceedings it is not a defense that the laborers, mechanics or
25 field surveyors accepted or agreed to accept less than the required
26 rate of wages or voluntarily made refunds.

27 * Sec. 10. AS 36.05.100 is amended to read:

28 Sec. 36.05.100. EFFECT OF SECS. 70 - 110 [120] OF THIS CHAPTER
29 ON OTHER LAWS. Sections 70 - 110 [120] of this chapter do not

1 supersede or impair authority granted by state law to provide for the
2 establishment of specific wage rates.

3 * Sec. 11. AS 36.10.010 is amended to read:

4 Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of
5 contracts let by the state or a political subdivision of the state
6 [, BOROUGHES, CITIES AND SCHOOL DISTRICTS] for construction, repair,
7 preliminary surveys, engineering studies or maintenance work, 95 per
8 cent residents shall be employed where they are available and qualified.
9 If 10 or fewer persons are employed under the contract, then 90 per
10 cent residents shall be employed where they are available and qualified.
11 In all cases of public works projects, preference shall be given to
12 residents.

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

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

24 * Sec. 13. AS 36.10 is amended by adding new sections 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. 36.10.125. ENFORCEMENT. The attorney general shall, when
4 requested by the Department of Labor, enforce the provisions of this
5 chapter. The attorney general may obtain a court order prohibiting
6 a contractor or subcontractor violating this chapter from continuing
7 to work on existing public construction contracts of the state or a
8 political subdivision of the state. The state or political subdivision
9 of the state may prosecute the work to completion by contract or other-
10 wise, and the contractor or subcontractor and his sureties are liable
11 for excess costs for completing the work.

12 * Sec. 14. AS 36.25.010(a) is amended to read:

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

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

24 (2) a payment bond with a corporate surety qualified to do
25 business in the state, or at least two individual sureties who shall
26 each justify in a sum equal to the amount of the bond for the protection
27 of all persons who supply labor and material in the prosecution of the
28 work provided for in the contract; when the total amount payable by
29 the terms of the contract is not more than \$1,000,000, the payment

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

8 * Sec. 15. AS 36.25.020(c) is amended to read:

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

15 * Sec. 16. AS 36.25 is amended by adding a new section to read:

16 Sec. 36.25.100. DEFINITIONS. In AS 36.05 - AS 36.25 of this
17 title unless the context requires otherwise

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

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

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

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

8 (5) "resident" means a person who maintains his domicile
9 in the state; domicile is the true and permanent home of a person from
10 which he has no present intention of removing and to which he intends
11 to return whenever he is away;

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

15 (7) "wages" includes fringe benefits.

16 * Sec. 17. AS 36.05.070(b), 36.05.120, 36.10.050, 36.10.110 are repealed.
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