

Introduced: 3/7/72
Referred: Resources

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST
OF THE JOINT PIPELINE IMPACT COMMITTEE
BY REQUEST

2 HOUSE BILL NO. 726

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 the leasing of state land for the
7 purposes of oil and gas pipeline construction and
8 operation and oil and gas exploration and production;
9 and providing for an effective date."

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

11 * Section 1. AS 38 is amended by adding a new chapter to read:

12 CHAPTER 40. LOCAL HIRE UNDER STATE LEASES.

13 Sec. 38.40.010. STATE POLICY. It is the policy of the state in
14 the development of its oil and gas resources to seek and accomplish
15 the development of its human resources by providing maximum employment
16 opportunities for its bona fide residents in conjunction with natural
17 resource management.

18 Sec. 38.40.020. LEGISLATIVE FINDINGS. The legislature finds that
19 Alaska has a uniquely high unemployment record among the states due
20 both to cultural and geographical migration barriers which record has
21 existed for many years and which experts have attested to will persist
22 without drastic governmental intervention. The legislature further
23 finds that employment opportunities which do from time to time occur in
24 the areas of the state which suffer from the largest chronic unemploy-
25 ment problem are nonrecurring and usually relate to the exploitation
26 of the state's natural resources and that the state has an obligation
27 to assure that the benefits of this employment enure to the benefit
28 of residents of the state.

29 Sec. 38.40.030. RESIDENT HIRE. (a) The commissioner of natural

1 resources shall incorporate into all oil and gas leases, easements or
2 right-of-way permits for oil or gas pipeline purposes, unitization
3 agreements or any renegotiation of any of the preceding to which the
4 state is a party a provision requiring the hiring of bona fide Alaska
5 residents in accordance with the provisions of this chapter.

6 (b) The commissioner of labor shall determine the number of man
7 hours of work which must be performed by bona fide Alaskan residents
8 by use of one of the following formulas:

9 (1) Formula no. one is determined in the following manner:

10 (A) The commissioner shall estimate the number of man
11 hours that would be worked on the project by resident Alaskans
12 absent the provisions of this chapter.

13 (B) The commissioner shall estimate the maximum number
14 of additional man hours of work for residents that would be pro-
15 vided by the expenditure of an amount equal to 20 per cent of the
16 project's total wage and salary costs.

17 (C) The sum of (b)(1)(A) and (B) of this section are
18 the number of man hours that must be worked by bona fide Alaskan
19 residents.

20 (2) Formula no. two is determined in the following manner:

21 (A) The commissioner shall estimate the number of man
22 hours that would be worked on the project by nonresidents absent
23 the provisions of this chapter.

24 (B) The commissioner shall multiply the estimate
25 arrived at in (b)(2)(A) of this section by 0.80.

26 (C) The result of (b)(2)(B) of this section is sub-
27 tracted from the total number of man hours expected to be worked
28 on the project.

29 (D) The result of (b)(2)(C) of this section reflected

1 as a percentage of the total man hours to be worked on the project
2 is the required percentage of man hours which must be worked by
3 bona fide Alaska residents.

4 (c) The commissioner of labor may reduce the amount of resident
5 hire required by this section on a satisfactory showing by the person
6 seeking the reduction that bona fide Alaskan residents are not avail-
7 able in the numbers required.

8 Sec. 38.40.040. REPORTING PROVISIONS. Persons obligated to meet
9 resident hiring requirements under this chapter shall comply with those
10 reporting provisions which the commissioner of labor determines are
11 reasonably necessary to carry out the purposes and intent of this
12 chapter.

13 Sec. 38.40.050. APPLICABILITY OF CHAPTER. (a) The provisions of
14 this chapter apply to all employment which is a result of oil and gas
15 leases, easements, leases or right-of-way permits for oil or gas
16 pipeline purposes, unitization agreements or any renegotiation of any
17 of the preceding to which the state is a party after the effective
18 date of this chapter.

19 (b) Limitations on (a) of this section are that the activity
20 which generates the employment must take place within the state and it
21 must take place either on the property under the control of the person
22 subject to this chapter or be directly related to activity taking place
23 on the property under his control and the activity must be performed
24 directly for the person subject to this chapter or his contractor or
25 a subcontractor of his contractor or a supplier of his contractor or
26 subcontractor.

27 (c) The Department of Labor shall determine a dollar amount value
28 of each project or activity covered by this chapter and set a minimum
29 dollar figure below which this chapter does not apply. In arriving

1 at this minimum dollar figure the department shall consider the benefit
2 which enures to bona fide Alaskan residents versus administrative and
3 enforcement costs. The department, by appropriate investigation and
4 ruling, shall insure that projects or activities within projects are
5 not artificially divided to prevent coverage under this chapter. The
6 burden is upon the person covered by this chapter to show that artifi-
7 cial division has or is not occurring.

8 Sec. 38.40.060. REGULATIONS AND HEARINGS. (a) The Departments of
9 Labor and Natural Resources shall promulgate appropriate regulations
10 to implement the provisions of this chapter. Regulations and hearings
11 promulgated or conducted under this chapter are subject to the Adminis-
12 trative Procedure Act (AS 44.62) except as provided in (b) of this
13 section.

14 (b) A bona fide resident of the state who is qualified and has
15 applied for a job covered by the provisions of this chapter, and who
16 has been rejected may request a hearing before the Department of
17 Labor to determine if the potential employer is in compliance with
18 the resident hiring provisions of this chapter. The department shall
19 set a date for and hold a hearing on the question within 10 days of
20 receipt of the request unless the person applying requests a longer
21 period of time.

22 Sec. 38.40.070. STANDING TO SUE. A bona fide resident of the
23 state who, being qualified, has applied for a job covered by the provi-
24 sions of this chapter and who has been rejected has standing to seek
25 judicial relief if he has exhausted his administrative remedy under
26 sec. 60(b) of this chapter.

27 Sec. 38.40.080. PENALTIES. (a) The Department of Natural
28 Resources, upon certification of noncompliance of a person by the
29 Department of Labor, after appropriate investigations and hearings,

1 may impose any of the following appropriate penalties:

2 (1) increase in rental or other forms of compensation re-
3 ceived by the state by a factor of no more than 10;

4 (2) require the halting of all or any portion of project
5 operations;

6 (3) stop payments on any or all existing contracts with
7 the state;

8 (4) remove, for an appropriate period of time the ability
9 of the person to contract with the state or any of its political sub-
10 divisions; or

11 (5) require a noncompliance payment in liquidated damages
12 to the state in an amount equal to seven and one-half times the number
13 of hours required, but not worked by bona fide Alaskan residents, times
14 the going wage or salary rate for the particular job or activity in-
15 volved.

16 (b) If the Department of Labor certifies that noncompliance is
17 wilful, the Department of Natural Resources may impose forfeiture of
18 the lease, easement, or right-of-way permit.

19 Sec. 38.40.090. INJUNCTIVE RELIEF. The Department of Labor or the
20 Department of Natural Resources, in addition to the imposition of any
21 penalties under sec. 80 of this chapter, may seek injunctive relief
22 against a person not in compliance with the provisions of this chapter.

23 Sec. 38.40.100. DEFINITIONS. In this chapter "bona fide resident"
24 or "resident" means a person physically present in the state at the time
25 he enters into a contract of employment (verbally or in writing) and
26 who shows by all attending circumstances that his intent is to make
27 Alaska his permanent residence.

28 * Sec. 2. This Act takes effect on the day after its passage and approval
29 or on the day it becomes law without approval.