

Original sponsor: Rules Committee by request  
of the Joint Pipeline Impact  
Committee by request

1 IN THE HOUSE

BY THE 2d FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR SENATE CS FOR CS FOR 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 natural resources to seek and accomplish the  
15 development of its human resources by providing maximum employment  
16 opportunities for its residents in conjunction with natural resource  
17 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) In order to create, protect

1 and preserve the right of Alaskan residents to employment the commis-  
2 sioner of natural resources shall incorporate into all oil and gas  
3 leases, easements or right-of-way permits for oil or gas pipeline  
4 purposes, unitization agreements or any renegotiation of any of the  
5 preceding to which the state is a party provisions requiring the lessee  
6 to comply with applicable laws and regulations with regard to hire of  
7 Alaskan residents. The commissioner shall include a provision requiring  
8 the hiring of qualified Alaskan residents, a provision prohibiting  
9 discrimination against Alaskan residents and, when in the determination  
10 of the commissioner it is practicable, a provision requiring compliance  
11 with the Alaska Plan, all in accordance with the provisions of this  
12 chapter.

13 (b) In implementing this chapter the commissioner of labor shall  
14 determine the amount of work which must be performed by qualified  
15 Alaskan residents under this chapter. In making this determination  
16 the commissioner shall consider the nature of the work, the classifica-  
17 tion of workers, availability of residents, the willingness of residents  
18 to perform the work and shall require the maximum feasible effort by  
19 employers to fill available jobs with qualified Alaskans.

20 (c) In implementing this chapter the commissioner of labor may  
21 require compliance with the terms and conditions of the Alaska Plan as  
22 approved by the United States Secretary of Labor to the extent feasible.

23 (d) In implementing this chapter the commissioner of labor shall  
24 adopt regulations prohibiting discrimination against Alaskan residents  
25 in hiring practices.

26 Sec. 38.40.040. REPORTING PROVISIONS. (a) Persons obligated to  
27 meet resident hiring requirements under this chapter shall comply with  
28 those reporting provisions which the commissioner of labor determines  
29 are reasonably necessary to carry out the purposes and intent of this

1 chapter.

2 (b) The Department of Labor shall maintain a file consisting of  
3 the names of qualified Alaskan residents seeking the type of employment  
4 covered by this chapter and resident Alaskans enrolled in approved  
5 on-the-job training programs who are qualified to perform the work  
6 required under this chapter.

7 Sec. 38.40.050. APPLICABILITY OF CHAPTER. (a) The provisions  
8 of this chapter apply to all employment which is a result of oil and  
9 gas leases, easements, leases or right-of-way permits for oil or gas  
10 pipeline purposes, unitization agreements or any renegotiation of any  
11 of the preceding to which the state is a party after the effective  
12 date of this chapter; however, the activity which generates the employ-  
13 ment must take place inside the state and it must take place either on  
14 the property under the control of the person subject to this chapter or  
15 be directly related to activity taking place on the property under his  
16 control and the activity must be performed directly for the person  
17 subject to this chapter or his contractor or a subcontractor of his  
18 contractor or a supplier of his contractor or subcontractor.

19 (b) The Department of Labor shall determine a dollar amount value  
20 of each project or activity covered by this chapter and set a minimum  
21 dollar figure below which this chapter does not apply. In arriving  
22 at this minimum dollar figure the department shall consider the benefit  
23 which enures to Alaskan residents versus administrative and enforcement  
24 costs. The department, by appropriate investigation and ruling, shall  
25 insure that projects or activities within projects are not artificially  
26 divided to prevent coverage under this chapter. The burden is upon  
27 the person covered by this chapter to show that artificial division  
28 has or is not occurring.

29 Sec. 38.40.060. REGULATIONS AND HEARINGS. (a) The Departments

1 of Labor and Natural Resources shall promulgate appropriate regulations  
2 to implement the provisions of this chapter. Regulations and hearings  
3 promulgated or conducted under this chapter are subject to the Adminis-  
4 trative Procedure Act (AS 44.62) except as provided in (b) of this  
5 section.

6 (b) It shall be the employer's responsibility to determine and  
7 adjudge the work qualifications of the prospective employee. A person  
8 who is qualified and has been rejected may request a hearing before  
9 the Department of Labor to determine if the potential employer is in  
10 compliance with the provisions of this chapter. The department shall  
11 set a date for and hold a hearing on the question within 10 days of  
12 receipt of the request unless the person applying requests a longer period  
13 of time.

14 Sec. 38.40.070. PENALTIES. (a) The Department of Natural Re-  
15 sources, upon certification of noncompliance of a person by the Depart-  
16 ment of Labor, after appropriate investigations and hearings, may,  
17 subject to judicial review, impose any of the following appropriate  
18 penalties:

19 (1) increase in rental or other forms of compensation received  
20 by the state by a factor of no more than 10 but in no event to exceed  
21 \$100,000;

22 (2) require the halting of all or any portion of project  
23 operations;

24 (3) stop payments on any or all existing contracts with the  
25 state;

26 (4) remove, for an appropriate period of time the ability of  
27 the person to contract with the state or any of its political subdivi-  
28 sions; or

29 (5) require a noncompliance payment in liquidated damages to

1 the state in an amount equal to seven and one-half times the number of  
2 hours required, but not worked by Alaskan residents, times the going  
3 wage or salary rate for the particular job or activity involved.

4 (b) Notwithstanding the provisions of (a) of this section, no  
5 penalty may be imposed against a lessee because of noncompliance with  
6 the provisions of this chapter by a supplier of the lessee's contractor  
7 or subcontractor if the lessee has received and retained a certificate  
8 from the supplier certifying that the supplier is in compliance with the  
9 provisions of this chapter. No certificate from the supplier is a bar  
10 to the imposition of a penalty against a lessee unless the certificate  
11 was made (1) upon oath or affirmation, (2) on forms prepared by the  
12 commissioner of labor furnished to the lessee before the date of the  
13 supplier's noncompliance, and the lessee has furnished a copy of the  
14 certificate to the commissioner of labor together with such additional  
15 information as the commissioner may require, and (3) by a supplier who  
16 is not himself a contractor or subcontractor of the lessee.

17 (c) The commissioner of labor, by regulation adopted under this  
18 chapter, may designate the intervals within which certificates of  
19 suppliers must be furnished under this section in order to constitute  
20 a bar against the imposition of penalties.

21 Sec. 38.40.080. INJUNCTIVE RELIEF. The Department of Labor or  
22 the Department of Natural Resources, in addition to the imposition of  
23 any penalties under sec. 70 of this chapter, may seek injunctive relief  
24 against a person not in compliance with the provisions of this chapter;  
25 the Department of Natural Resources may seek injunctive relief to en-  
26 force penalties imposed under sec. 70 of this chapter.

27 Sec. 38.40.090. DEFINITIONS. In this chapter "resident" means  
28 a person who

29 (1) except for brief intervals or military service has been

1 physically present in the state for a period of one year immediately  
2 prior to the time he enters into a contract of employment; and

3 (2) maintains a place of residence within the state; and

4 (3) has established a residency for voting purposes within  
5 the state; and

6 (4) has not, within the period of required residency, claimed  
7 residency in another state; and

8 (5) shows by all attending circumstances that his intent  
9 is to make Alaska his permanent residence.

10 \* Sec. 2. If a court of competent jurisdiction invalidates any of the  
11 criteria or tests of residency in sec. 90 of this chapter, the term "resi-  
12 dent" then means a person who satisfies the remaining criteria or tests not  
13 invalidated, and this chapter shall be administered and enforced accordingly.

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