

Introduced: 5/9/75  
Referred: Commerce and  
Labor & Management

1 IN THE HOUSE

BY RHODE BY REQUEST

2 HOUSE BILL NO. 494

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

8 \* Section 1. AS 36.05.035 is amended to read:

9 Sec. 36.05.035. NOTIFICATION OF CONTRACT AWARDS. Upon awarding a  
10 public construction contract, the state [OR A POLITICAL SUBDIVISION OF  
11 THE STATE] shall

12 (1) immediately notify the commissioner of labor of the amount  
13 of the contract, the effective date of the contract, the identity of the  
14 contractor and all subcontractors, the site or sites of construction and  
15 provide a project description; and

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

18 \* Sec. 2. AS 36.05.040 is amended to read:

19 Sec. 36.05.040. FILING SCHEDULE OF EMPLOYEES, WAGES PAID AND OTHER  
20 INFORMATION. All contractors or subcontractors who perform work on a  
21 public construction contract for the state [OR FOR A POLITICAL SUBDIVI-  
22 SION OF THE STATE] shall, before the Friday of each week, file with the  
23 Department of Labor a sworn affidavit for the previous week, setting out  
24 in detail the number of men employed, wages paid, job classification of  
25 each employee, hours worked each day and week, and other information  
26 which the Department of Labor requires.

27 \* Sec. 3. AS 36.05.070 is amended to read:

28 Sec. 36.05.070. WAGE RATES FOR LABORERS AND MECHANICS ON PUBLIC  
29 CONTRACTS. (a) The advertised specifications for a public construction

1 contract exceeding \$2,000 to which the state [OR A POLITICAL SUBDIVISION  
2 OF THE STATE] is a party which requires or involves the employment of  
3 mechanics, laborers, or field surveyors shall contain a provision stating  
4 the minimum wages to be paid various classes of laborers, mechanics, or  
5 field surveyors.

6 (b) Repealed by sec. 17 ch. 142 SLA 1972.

7 (c) A contract for public works in the state [OR A POLITICAL SUB-  
8 DIVISION] shall contain provisions that

9 (1) the contractor or his subcontractors shall pay all  
10 employees unconditionally and not less than once a week;

11 (2) wages may not be less than those stated in the advertised  
12 specifications, regardless of the contractual relationship between the  
13 contractor or subcontractors and laborers, mechanics, or field surveyors;

14 (3) the scale of wages to be paid shall be posted by the  
15 contractor in a prominent and easily accessible place at the site of the  
16 work;

17 (4) the state [OR A POLITICAL SUBDIVISION] shall withhold so  
18 much of the accrued payments as is necessary to pay to laborers,  
19 mechanics, or field surveyors employed by the contractor or sub-  
20 contractors the difference between

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

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

25 \* Sec. 4. AS 36.05.080 is amended to read:

26 Sec. 36.05.080. FAILURE TO PAY AGREED WAGES. Every contract  
27 within the scope of sec. 70 of this chapter shall contain a provision  
28 that if it is found that a laborer, mechanic, or field surveyor employed  
29 by the contractor or subcontractor has been or is being paid a rate of

1 wages less than the rate of wages required by the contract to be paid,  
2 the state [OR ITS POLITICAL SUBDIVISION] may, by written notice to the  
3 contractor, terminate his right to proceed with the work or the part of  
4 the work for which there is a failure to pay the required wages and to  
5 prosecute the work to completion by contract or otherwise, and the  
6 contractor and his sureties are liable to the state [OR ITS POLITICAL  
7 SUBDIVISION] for excess costs for completing the work.

8 \* Sec. 5. AS 36.05.090 is amended to read:

9       Sec. 36.05.090. PAYMENT OF WAGES FROM WITHHELD PAYMENTS AND  
10 LISTING CONTRACTORS WHO VIOLATE CONTRACTS. (a) The state disbursing  
11 officer [IN THE CASE OF A STATE CONTRACT AND THE LOCAL FISCAL OFFICER  
12 IN THE CASE OF A POLITICAL SUBDIVISION CONTRACT] shall pay directly to  
13 laborers, mechanics or field surveyors from accrued payments withheld  
14 under the terms of the contract the wages due laborers, mechanics or  
15 field surveyors under sec. 70 of this chapter.

16       (b) The state disbursing officer [OR THE LOCAL FISCAL OFFICER]  
17 shall distribute to all departments of the state government [AND TO ALL  
18 POLITICAL SUBDIVISIONS OF THE STATE] a list giving the names of persons  
19 who have disregarded their obligations to employees. No person appearing  
20 on this list and no firm, corporation, partnership or association in  
21 which the person has an interest may work as a contractor or subcon-  
22 tractor on a public construction contract for the state [OR A POLITICAL  
23 SUBDIVISION OF THE STATE] until three years after the date of publication  
24 of the list. If the accrued payments withheld under the contract are  
25 insufficient to reimburse all the laborers, mechanics, or field surveyors  
26 with respect to whom there has been a failure to pay the wages required  
27 under sec. 70 of this chapter, the laborers, mechanics or field surveyors  
28 have the right of action or intervention or both against the contractor  
29 and his sureties conferred by law upon persons furnishing labor or

1 materials, and in the proceedings it is not a defense that the laborers,  
2 mechanics or field surveyors accepted or agreed to accept less than the  
3 required rate of wages or voluntarily made refunds.

4 \* Sec. 6. AS 36.10.010 is amended to read:

5 Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of  
6 contracts let by the state [OR A POLITICAL SUBDIVISION OF THE STATE] for  
7 construction, repair, preliminary surveys, engineering studies, con-  
8 sulting, maintenance work or any other retention of services necessary  
9 to complete any given project, 95 per cent residents shall be employed  
10 where they are available and qualified. If 10 or fewer persons are  
11 employed under the contract, then 90 per cent residents shall be employed  
12 where they are available and qualified. In all cases of public works  
13 projects, preference shall be given to residents.

14 \* Sec. 7. AS 36.10.076 is amended to read:

15 Sec. 36.10.076. DUTIES OF STATE [OR POLITICAL SUBDIVISION]. An  
16 agency [OR POLITICAL SUBDIVISION] of the state covered by the provisions  
17 of this chapter shall notify the Department of Labor periodically regard-  
18 ing planned public works. Notification shall be in the form and manner  
19 prescribed by the Department of Labor.

20 \* Sec. 8. AS 36.10.090 is amended to read:

21 Sec. 36.10.090. PUBLICATION OF LIST OF VIOLATORS. (a) The commis-  
22 sioner of labor shall distribute to all departments and agencies of  
23 the state government [AND TO ALL POLITICAL SUBDIVISIONS OF THE STATE] a  
24 list of the names of persons or firms convicted of a violation of this  
25 chapter. No person appearing on the list and no firm, corporation,  
26 partnership or association in which the person has an interest may work  
27 as a contractor or subcontractor on a public construction contract for  
28 the state [OR A POLITICAL SUBDIVISION] until after three years from the  
29 date of publication of the list.

1 (b) [A LOCAL GOVERNMENT OR SCHOOL DISTRICT COVERED BY THE PROVI-  
2 SIONS OF THIS CHAPTER WHICH IS FOUND TO BE IN VIOLATION OF THESE  
3 PROVISIONS MAY BE REQUIRED TO FORFEIT ALL OR PART OF THE STATE AID MADE  
4 AVAILABLE FOR THE PROJECT IN WHICH THE VIOLATION OCCURS AND IN ADDITION  
5 MAY BE DENIED UP TO 12 MONTHS OF STATE REVENUE SHARING OR PUBLIC SCHOOL  
6 FOUNDATION MONEY.] A state department or agency head found to be in  
7 violation of this chapter may be required to forfeit his position.

8 (c) A person [OR GOVERNMENTAL ENTITY] covered by the provisions of  
9 (b) of this section who is not satisfied by a decision of the Department  
10 of Labor may, as the final administrative process, appeal the decision  
11 to a committee consisting of the commissioners of public works, labor  
12 and administration. The commissioner of public works is the chairman of  
13 the committee. A quorum for conducting business is three members and any  
14 decision made must be supported by a majority of the committee members.  
15 The committee may, upon a showing of hardship, waive all or any part of  
16 the penalty provisions of this chapter.

17 \* Sec. 9. AS 36.10.125 is amended to read:

18 Sec. 36.10.125. ENFORCEMENT. The attorney general shall, when  
19 requested by the Department of Labor, enforce the provisions of this  
20 chapter. The attorney general may obtain a court order prohibiting a  
21 contractor or subcontractor violating this chapter from continuing to  
22 work on existing public construction contracts of the state [OR A  
23 POLITICAL SUBDIVISION OF THE STATE]. The state [OR POLITICAL SUB-  
24 DIVISION OF THE STATE] may prosecute the work to completion by contract  
25 or otherwise, and the contractor or subcontractor and his sureties are  
26 liable for excess costs for completing the work.

27 \* Sec. 10. AS 36.25.010(a) is amended to read:

28 (a) Before a contract exceeding \$2,000 for the construction,  
29 alteration, or repair of a public building or public work of the state

1 [OR A POLITICAL SUBDIVISION OF THE STATE] is awarded to a general or  
2 specialty contractor, the contractor shall furnish to the state [OR A  
3 POLITICAL SUBDIVISION OF THE STATE] the following bonds, which become  
4 binding upon the award of the contract to that contractor:

5 (1) a performance bond with a corporate surety qualified to do  
6 business in the state, or at least two individual sureties who shall  
7 each justify in a sum equal to the amount of the bond; the amount of the  
8 performance bond shall be equivalent to the amount of the payment bond;

9 (2) a payment bond with a corporate surety qualified to do  
10 business in the state, or at least two individual sureties who shall each  
11 justify in a sum equal to the amount of the bond for the protection of  
12 all persons who supply labor and material in the prosecution of the work  
13 provided for in the contract; when the total amount payable by the terms  
14 of the contract is not more than \$1,000,000, the payment bond shall be  
15 in a sum of one-half the total amount payable by the terms of the  
16 contract; when the total amount payable by the terms of the contract is  
17 more than \$1,000,000 and not more than \$5,000,000, the payment bond shall  
18 be in a sum of 40 per cent of the total amount payable by the terms of  
19 the contract; when the total amount payable by the terms of the contract  
20 is more than \$5,000,000, the payment bond shall be in the sum of  
21 \$2,500,000.

22 \* Sec. 11. AS 36.25.020(c) is amended to read:

23 (c) A suit brought under this section shall be brought in the  
24 name of the state [OR THE POLITICAL SUBDIVISION OF THE STATE] for the use  
25 of the person suing in the superior court. No suit may be started after  
26 the expiration of one year after the date of final settlement of the  
27 contract. The state [OR POLITICAL SUBDIVISION OF THE STATE] is not  
28 liable for costs or expenses of the suit.

29 \* Sec. 12. AS 36.95.010(3) is amended to read:

1                   (3) "public construction" or "public works" means the on-site  
2 erection, rehabilitation, alteration, extension or repair, including  
3 painting or redecorating buildings, highways or other improvements to  
4 real property under contract for the state [OR A POLITICAL SUBDIVISION  
5 OF THE STATE];

6 \* Sec. 13. AS 36.95.010(6) is amended to read:

7                   (6) "state [OR A POLITICAL SUBDIVISION OF THE STATE]" means  
8 any state department, state agency, or state university [, BOROUGH, CITY,  
9 VILLAGE, SCHOOL DISTRICT OR OTHER STATE SUBDIVISION];

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