

Original sponsor: Rules Committee by  
request of the Governor

Offered: 5/6/76  
Referred: Rules

1 IN THE HOUSE

BY THE LABOR AND MANAGEMENT  
COMMITTEE

2 CS FOR HOUSE BILL NO. 591

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the employment of Alaska residents;  
7 and providing for an effective date."

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

9 \* Section 1. AS 36.10.010 is amended to read:

10 Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of  
11 contracts let by the state or a political subdivision of the state for  
12 construction, repair, preliminary surveys, engineering studies, fiscal,  
13 bonding or other consulting, maintenance work or any other retention of  
14 services necessary to complete any given project, 95 per cent residents  
15 shall be employed where they are available and qualified. If 10 or  
16 fewer persons are employed under the contract, then 90 per cent resi-  
17 dents shall be employed where they are available and qualified. In all  
18 cases of public works projects, preference shall be given to residents.

19 \* Sec. 2. AS 36.10.125 is amended by adding a new subsection to read:

20 (b) A private person is entitled to bring action in the superior  
21 court to enforce the provisions of this chapter if he gives at least 20  
22 days notice before filing the action to the commissioner of labor that  
23 he intends to bring action under this subsection, the specific violation  
24 complained of, and the name of the person accused of the violation. In  
25 an action brought under this subsection the court may, in its discre-  
26 tion, order denial of state revenue sharing or public school foundation  
27 money, forfeiture of office or position, or injunctive or other relief.  
28 If the court finds for the plaintiff in an action brought under this  
29 subsection, it may award the plaintiff an amount equal to the actual

1 costs and attorney fees he incurred.

2 \* Sec. 3. AS 38.40.030(a) is amended to read:

3 (a) In order to create, protect and preserve the right of Alaska  
4 residents to employment, the commissioner of natural resources shall  
5 incorporate into all oil and gas leases, easements or right-of-way  
6 permits for oil or gas pipeline purposes, unitization agreements, or any  
7 renegotiation of any of the preceding to which the state is a party,  
8 provisions requiring the lessee to comply with applicable laws and regu-  
9 lations with regard to the employment [HIRE] of Alaska residents, [  
10 THE COMMISSIONER SHALL INCLUDE] a provision requiring the employment  
11 [HIRING] of qualified Alaska residents, a provision prohibiting dis-  
12 crimination against Alaska residents and, when in the determination of  
13 the commissioner of natural resources it is practicable, a provision re-  
14 quiring compliance with the Alaska Plan, all in accordance with the  
15 provisions of this chapter.

16 \* Sec. 4. AS 38.40.030(b) is repealed and re-enacted to read:

17 (b) All employment falling within the purview of sec. 50 of this  
18 chapter shall be filled by Alaska residents if they are qualified and  
19 available. The commissioner of labor, whose decision is final as to  
20 residency, shall determine the resident status of individuals for  
21 purposes of this chapter and issue a certificate to persons determined  
22 to be residents of the state.

23 \* Sec. 5. AS 38.40.030(d) is repealed and re-enacted to read:

24 (d) The Department of Labor shall adopt regulations necessary to  
25 implement the provisions of this chapter.

26 \* Sec. 6. AS 38.40.040(a) is amended to read:

27 (a) An employer [PERSONS] obligated to meet resident employment  
28 [HIRING] requirements under this chapter shall comply with those report-  
29 ing provisions which the commissioner of labor determines are reasonably

1 necessary to carry out the purposes and intent of this chapter.

2 \* Sec. 7. AS 38.40.040(b) is repealed and re-enacted to read:

3 (b) The Department of Labor shall prepare a list of certified  
4 Alaska residents and, upon request, shall make it available to an  
5 employer subject to this chapter, and to any employment or dispatching  
6 agency, union, or other similar entity.

7 \* Sec. 8. AS 38.40.060 is repealed and re-enacted to read:

8 Sec. 38.40.060. HEARINGS AND INVESTIGATIONS. (a) The Departments  
9 of Labor and Natural Resources shall promulgate appropriate regulations  
10 to implement the provisions of this chapter. A qualified Alaska resi-  
11 dent who has been rejected for or terminated from employment by an  
12 employer subject to this chapter may, within 15 days from the rejection  
13 or termination, file a written request for a hearing before the Depart-  
14 ment of Labor to determine if the employer is in compliance with the  
15 provisions of this chapter. The department shall investigate, set a  
16 date for and hold a hearing within 30 days after receipt of the request,  
17 unless the person applying requests a longer period of time.

18 (b) The Department of Labor may, on its own motion, conduct  
19 appropriate investigations and hearings to determine compliance with the  
20 provisions of this chapter.

21 (c) The commissioner of labor, acting on a complaint or his own  
22 motion, upon finding wilful noncompliance by an employer with the  
23 provisions of this chapter, may certify that finding to the Department  
24 of Natural Resources.

25 (d) Hearings and investigations conducted under this section are  
26 not subject to the Administrative Procedure Act (AS 44.62), but are  
27 subject to judicial review under sec. 70(a) of this chapter if appealed  
28 within 30 days.

29 \* Sec. 9. AS 38.40.070 is repealed and re-enacted to read:

1           Sec. 38.40.070. PENALTIES. (a) Upon finding that a qualified  
2 Alaska resident has been rejected for or terminated from employment, in  
3 violation of this chapter, the Department of Labor may require the  
4 employer to pay the qualified Alaska resident triple the wages he lost,  
5 or any damages or expenses actually incurred as a result of the wrongful  
6 action if they exceed the triple wages assessed. The imposition or  
7 withholding of any payment or penalty under this section may be appealed  
8 to the superior court. The superior court shall hear these matters de  
9 novo.

10           (b) The Department of Natural Resources, upon receipt of a cer-  
11 tification of wilful noncompliance of an employer by the commissioner of  
12 labor and after appropriate investigations and hearings, may impose the  
13 following penalties:

14           (1) increase rent or other forms of compensation received by  
15 the state by a factor of no more than 10 but in no event to exceed  
16 \$100,000;

17           (2) require that all or any portion of project operations be  
18 halted;

19           (3) stop payment on any or all existing contracts between  
20 that person and the state; or

21           (4) remove, for an appropriate period of time, the eligi-  
22 bility of the person to contract with the state or any of its political  
23 subdivisions.

24           (c) Notwithstanding (a) of this section, no penalty may be imposed  
25 against a lessee because of noncompliance with the provisions of this  
26 chapter by a supplier of the lessee's contractor or subcontractor if the  
27 lessee has received and retained a certificate from the supplier certi-  
28 fying that the supplier is in compliance with the provisions of this  
29 chapter. However, no certificate from the supplier is a bar to the

1 imposition of a penalty against a lessee unless the certificate was made  
2 (1) upon oath or affirmation, (2) on forms prepared by the commissioner  
3 of labor furnished to the lessee before the date of the supplier's non-  
4 compliance, and the lessee has furnished a copy of the certificate to  
5 the commissioner of labor together with additional information the  
6 commissioner may require, and (3) by a supplier who is not himself a  
7 contractor or subcontractor of the lessee.

8 (d) The commissioner of labor may, by regulation, designate the  
9 intervals within which certificates of suppliers must be furnished under  
10 this section in order to constitute a bar against the imposition of  
11 penalties.

12 \* Sec. 10. AS 38.40.080 is amended to read:

13 Sec. 38.40.080. INJUNCTIVE RELIEF. The Department of Labor or the  
14 Department of Natural Resources, in addition to the imposition of any  
15 penalties under sec. 70 of this chapter, may seek injunctive relief  
16 against an employer [A PERSON] not in compliance with the provisions of  
17 this chapter. Either department [; THE DEPARTMENT OF NATURAL RESOURCES]  
18 may seek injunctive relief to enforce penalties which it has imposed  
19 under sec. 70 of this chapter.

20 \* Sec. 11. AS 38.40.090 is repealed and re-enacted to read:

21 Sec. 38.40.090. DEFINITIONS. In this chapter

22 (1) "resident" means a person who

23 (A) except for brief intervals, military service,  
24 attendance at an educational or training institution, or for  
25 absences for good cause, is physically present in the state for a  
26 period of one year immediately before the time his status is  
27 determined;

28 (B) maintains a place of residence in the state;

29 (C) has established residency for voting purposes

1 in the state;

2 (D) has not, within the period of required residency,  
3 claimed residency in another state; and

4 (E) shows by all attending circumstances that his  
5 intent is to make Alaska his permanent residence;

6 (2) "qualified" means capable, through education, training,  
7 or experience, of performing the duties and satisfying the usual terms  
8 and conditions of the employment, if those duties, terms and conditions  
9 meet the reasonable standards of the industry as required of other  
10 employees performing the same type of work in the industry;

11 (3) "wilful noncompliance" means intentionally, knowingly,  
12 or purposely, without justifiable excuse, not giving preference to  
13 qualified Alaska residents in employment covered by this chapter;

14 (4) "noncompliance" means not giving preference to qualified  
15 Alaska residents in employment covered by this chapter.

16 \* Sec. 12. This Act takes effect immediately in accordance with AS 01.-  
17 10.070(c).