

Introduced: 2/3/82
Referred: Labor & Commerce

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 724

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the payment of prevailing wages and
7 the payment of overtime under public construction
8 contracts; and providing for an effective date."

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

10 * Section 1. AS 36.05.010 is amended to read:

11 Sec 36.05.010. WAGE RATES ON PUBLIC CONSTRUCTION. A contractor or
12 subcontractor who performs work on public construction in the state, as
13 defined by AS 36.95.010(3), the cost of which exceeds \$25,000, shall pay
14 not less than the current prevailing rate of wages for work of a similar
15 nature in the region in which the work is done. The current prevailing
16 rate of wages for each pay period is that contained in the latest deter-
17 mination of prevailing rate of wages issued by the Department of Labor
18 before the end of the pay period.

19 * Sec. 2. AS 36.05 is amended by adding a new section to read:

20 Sec. 36.05.015. OVERTIME REQUIREMENTS. (a) Notwithstanding the
21 provisions of AS 23.10.060(17) and (18), a contractor or subcontractor
22 contracting for any part of a public construction contract which re-
23 quires the employment of laborers, mechanics, or field surveyors may not
24 require or permit a laborer, mechanic, or field surveyor to work more
25 than eight hours a day or more than 40 hours in a week during that
26 employment unless the laborer, mechanic, or field surveyor receives
27 compensation at a rate of pay not less than one and one-half times his
28 basic rate of pay for all work in excess of eight hours a day or 40
29 hours a week.

1 (b) This section is considered included in all contracts for
2 public works made in the state.

3 * Sec. 3. AS 36.05.030(a) is amended by adding new paragraphs to read:

4 (4) take an assignment of a wage claim for the full amount
5 the employee is entitled to under this chapter;

6 (5) seek recovery of wages for all persons on a public con-
7 struction project to whom wages are due under this chapter, regardless
8 of whether a wage claim has been filed.

9 * Sec. 4. AS 36.05.060 is repealed and reenacted to read:

10 Sec. 36.05.060. PENALTY. (a) A person who violates the terms of
11 an injunction or restraining order issued under AS 36.05.115 is subject
12 to a civil penalty of not more than \$25,000 for each violation. The
13 attorney general, acting in the name of the state, may petition for
14 imposition of the penalty.

15 (b) In an action brought under AS 36.05.115, if the court finds
16 that a person has violated a provision of this chapter, the attorney
17 general, upon petition to the court, may recover, on behalf of the
18 state, a civil penalty of not more than \$5,000 for each violation. For
19 each day the violation exists, a separate penalty may be imposed.

20 * Sec. 5. AS 36.05.070(a) is amended to read:

21 (a) The advertised specifications for a public construction con-
22 tract exceeding \$25,000 [\$2,000] to which the state or a political sub-
23 division of the state is a party which requires or involves the employ-
24 ment of mechanics, laborers, or field surveyors shall contain a provis-
25 ion stating the minimum prevailing wages to be paid various classes of
26 laborers, mechanics, or field surveyors and that the rate of wages shall
27 be adjusted to the wage rate for each pay period applicable under AS 36.
28 05.010.

29 * Sec. 6. AS 36.05.070(c)(4) is amended to read:

1 (4) if the state or political subdivision is notified by
2 the Department of Labor that wages have not been paid as required under
3 AS 36.05.010 -- 36.05.015, the state or [A] political subdivision shall
4 withhold so much of the [ACCRUED] payments due the contractor as is
5 necessary to pay to laborers, mechanics, or field surveyors employed by
6 the contractor [OR SUBCONTRACTORS] the difference between

7 (A) the rates of wages required by the contract to be
8 paid [LABORERS, MECHANICS, OR FIELD SURVEYORS ON THE WORK], and

9 (B) the rates of wages in fact received [BY LABORERS,
10 MECHANICS OR FIELD SURVEYORS].

11 * Sec. 7. AS 36.05.070 is amended by adding new subsections to read:

12 (d) If the state or a political subdivision withholds payment
13 under (c)(4) of this section, it shall pay the amount withheld to the
14 Department of Labor for disbursement directly to the laborers, mechan-
15 ics, or field surveyors who have not been paid the rates of wages re-
16 quired by the contract to be paid.

17 (e) The provisions in (c) of this section are considered included
18 in all contracts for public works in the state or a political subdivi-
19 sion of the state.

20 * Sec. 8. AS 36.05 is amended by adding a new section to read:

21 Sec. 36.05.075. APPRENTICES. A registered apprentice in a craft
22 is entitled to be paid at least at the rate for an apprentice in that
23 craft set by the United States Department of Labor.

24 * Sec. 9. AS 36.05.090 is repealed and reenacted to read:

25 Sec. 36.05.090. BARRING CONTRACT VIOLATORS. (a) If a person vio-
26 lates a provision of this chapter and the Department of Labor believes
27 that person should be barred from bidding on or participating in future
28 public works contracts in the state, it shall bar the person after first
29 complying with the adjudication provisions of the Administrative Proce-

1 dure Act (AS 44.62.330 -- 44.62.640).

2 (b) If , under (a) of this section, the Department of Labor bars a
3 person from bidding on or participating in a future public works con-
4 tract, it shall distribute to the departments and agencies of the state
5 government and to the political subdivisions of the state the name of
6 the person. No person who has been barred and no firm, corporation,
7 partnership, or association in which the person has an interest may work
8 as a contractor or subcontractor on a public construction contract for
9 the state or a political subdivision during the period established in
10 the decision.

11 (c) A person may not be barred under (a) of this section for more
12 than three years as a result of a single proceeding.

13 (d) A person who has been barred under (a) of this section may
14 appeal the department's decision to the superior court for review within
15 30 days after receiving the department's decision.

16 * Sec. 10. AS 36.05 is amended by adding a new section to read:

17 Sec. 36.05.115. ENFORCEMENT. (a) The attorney general may, when
18 requested by the Department of Labor, enforce the provisions of this
19 chapter.

20 (b) The attorney general may petition the superior court to

21 (1) enjoin an act or practice which violates a provision of
22 this chapter or a regulation adopted under it;

23 (2) order payment of wages from the employer or surety;

24 (3) enjoin a person found in violation of this chapter from
25 continuing to work on an existing public construction contract; and

26 (4) impose a civil penalty under AS 36.05.060.

27 (c) If the court enjoins a person from further work on an existing
28 public construction contract, the state or a political subdivision may
29 complete the work, and the person and his sureties are liable for com-

1 pletion costs exceeding the original amount of the contract.

2 (d) Enforcement under this section may be taken independently of
3 and in addition to action taken under AS 36.05.090.

4 * Sec. 11. AS 36.95.010(3) is amended to read:

5 (3) "public construction" or "public works" means the on-site
6 field surveying, erection, rehabilitation, alteration, extension, or
7 repair, including painting or redecorating of buildings, of highways or
8 other improvements to real property under contract for the state, a
9 political subdivision of the state, or a regional school board with
10 respect to an educational facility under AS 14.08.161; the terms do
11 not include regular maintenance for the preservation of existing proper-
12 ty or facilities;

13 * Sec. 12. AS 36.10.020 is repealed.

14 * Sec. 13. This act takes effect January 1, 1983.
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