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BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 62 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

10 * Section 1. AS 36.05 is amended by adding a new section to read:

11 Sec. 36.05.015. OVERTIME REQUIREMENTS. (a) Notwithstanding the
12 provisions of AS 23.10.060(1), (17), and (18), a contractor or subcon-
13 tractor contracting for any part of a public construction contract
14 that requires or involves the employment of laborers, mechanics, or
15 field surveyors may not require or permit a laborer, mechanic, or
16 field surveyor to work more than eight hours a day or more than 40
17 hours in a week during that employment unless the laborer, mechanic,
18 or field surveyor receives compensation for all work in excess of
19 eight hours a day or 40 hours a week at a rate of pay not less than
20 one and one-half times the employee's basic rate of pay.

21 (b) The provisions in this section are considered included in
22 all contracts for public construction in the state.

23 * Sec. 2. AS 36.05.030(a) is amended to read:

24 (a) The Department of Labor has the authority to determine the
25 prevailing wage, and whether or not this chapter is being violated.
26 The department may when necessary for the enforcement of this chapter

27 (1) conduct investigations and hold hearings concerning
28 wages;

29 (2) compel the attendance of witnesses and the production

1 of books, papers and documents;

2 (3) adopt [PROMULGATE] regulations;

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

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

8 * Sec. 3. AS 36.05.060 is repealed and reenacted to read:

9 Sec. 36.05.060. CIVIL PENALTY. (a) A person who violates the
10 terms of an injunction or restraining order issued under AS 36.05.115
11 is subject to a civil penalty of not more than \$25,000 for each vio-
12 lation.

13 (b) In an action brought under AS 36.05.115, if the court finds
14 that a person has violated a provision of this chapter, a civil penal-
15 ty of not more than \$5,000 for each violation may be imposed. For
16 each day the violation exists, a separate penalty may be imposed.

17 * Sec. 4. AS 36.05.070(a) is amended to read:

18 (a) The advertised specifications for a public construction
19 contract exceeding \$2,000 to which the state or a political subdivi-
20 sion of the state is a party that [WHICH] requires or involves the
21 employment of mechanics, laborers, or field surveyors must [SHALL]
22 contain a provision stating the minimum prevailing wages to be paid
23 various classes of laborers, mechanics, or field surveyors and re-
24 quiring that the rate of wages [SHALL] be adjusted to the wage rate
25 for each pay period applicable under AS 36.05.010.

26 * Sec. 5. AS 36.05.070(c) is amended to read:

27 (c) A contract for public works in the state or a political
28 subdivision must [SHALL] contain provisions that

29 (1) the contractor or [HIS] subcontractors of the

1 contractor shall pay all employees unconditionally and not less than
2 once a week;

3 (2) wages may not be less than those stated in the adver-
4 tised specifications, regardless of the contractual relationship
5 between the contractor or subcontractors and laborers, mechanics, or
6 field surveyors;

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

10 (4) if the state or political subdivision is notified by
11 the Department of Labor that wages have not been paid as required
12 under AS 36.05.010 - 36.05.015, the state or [A] political subdivision
13 shall withhold so much of the [ACCRUED] payments due the contractor as
14 is necessary to pay to laborers, mechanics, or field surveyors em-
15 ployed by the contractor or subcontractors the difference between

16 (A) the rates of wages required to be paid by the
17 contract and this chapter [TO BE PAID LABORERS, MECHANICS, OR
18 FIELD SURVEYORS ON THE WORK], and

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

21 * Sec. 6. AS 36.05.070 is amended by adding new subsections to read:

22 (d) If the state or political subdivision withholds payment
23 under (c)(4) of this section, it shall pay the amount withheld to the
24 Department of Labor for disbursement directly to the laborers, mechan-
25 ics, or fields surveyors who have not been paid the rates of wages
26 required by the contract and this chapter.

27 (e) The provisions in (c) of this section are considered includ-
28 ed in all contracts for public construction in the state or political
29 subdivisions of the state.

1 * Sec. 7. AS 36.05 is amended by adding a new section to read:

2 Sec. 36.05.075. APPRENTICES. An apprentice in a craft appren-
3 ticeship program that has been approved in writing by the commissioner
4 of labor, or that has been registered as a bona fide apprenticeship
5 program by the Bureau of Apprenticeship and Training, United States
6 Department of Labor, must be paid at least at the rate set by the
7 United States Department of Labor for an apprentice in that craft. An
8 employee listed on a payroll at an apprentice wage rate who is not in
9 a registered apprenticeship program must be paid at the minimum pre-
10 vailing wage rate for that work classification.

11 * Sec. 8. AS 36.05.090 is repealed and reenacted to read:

12 Sec. 36.05.090. BARRING CONTRACT VIOLATORS. (a) If a person
13 violates a provision of this chapter, the Department of Labor may
14 initiate a proceeding to bar the person from bidding on or participat-
15 ing in future public construction contracts in the state. The pro-
16 ceeding shall be in accordance with AS 44.62.330 - 44.62.640.

17 (b) If, under (a) of this section, the Department of Labor bars
18 a person from bidding on or participating in a future public con-
19 struction contract, it shall distribute to the departments and
20 agencies of the state and to the political subdivisions of the state
21 the name of the person. A person who has been barred and a firm,
22 corporation, partnership, or association in which the person has an
23 interest may not work as a contractor or subcontractor on a public
24 construction contract for the state or a political subdivision during
25 the period established in the decision.

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

28 * Sec. 9. AS 36.05 is amended by adding a new section to read:

29 Sec. 36.05.115. ENFORCEMENT. (a) The attorney general may,

1 when requested by the Department of Labor, enforce the provisions of
2 this chapter.

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

4 (1) enjoin an act or practice that violates a provision of
5 this chapter or a regulation adopted under it;

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

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

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

10 (c) If the court enjoins a person from further work on an exist-
11 ing public construction contract, the state or political subdivision
12 may complete the work, and the person and the person's sureties are
13 liable for the reasonable completion costs exceeding the original
14 amount of the contract.

15 (d) Enforcement action under this section may be taken indepen-
16 dently of or in addition to action taken under AS 36.05.090.

17 * Sec. 10. AS 36.95.010(3) is amended to read:

18 (3) "public construction" or "public works" means the
19 on-site field surveying, erection, rehabilitation, alteration, exten-
20 sion or repair, including painting or redecorating of buildings,
21 highways or other improvements to real property under contract for the
22 state, a political subdivision of the state, or a regional school
23 board; the terms do not include regular maintenance or scheduled
24 maintenance for the preservation of existing property or facilities;

25 * Sec. 11. AS 36.05.030(b) and AS 36.10.020 are repealed.