

Introduced: 1/29/86  
Referred: Labor and Commerce  
and Judiciary

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1 IN THE SENATE

2 SENATE BILL NO. 367

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Alaskan resident employment  
7 preference; and providing for an effective date."

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

9 \* Section 1. PURPOSE. The legislature recognizes that the state has a  
10 significant unemployment problem. This Act is intended to better fulfill  
11 the state's duty of loyalty to its citizens, reduce unemployment among  
12 residents of the state, and assist economically and socially disadvantaged  
13 residents. If the courts find that a portion of AS 36.10 is unconstitu-  
14 tional, the public interest requires that the remaining portions be imple-  
15 mented as fully as possible.

16 \* Sec. 2. AS 36.10.005 is amended by adding new subsections to read:

17 (c) The legislature further finds that the following factors are  
18 adequate but not exclusive indicators of the ratio on a public works  
19 project of nonresident to resident employees:

20 (1) the ratio between the employees on a certified payroll  
21 who did not apply for or were refused a permanent fund dividend under  
22 AS 43.23 to those employees who were found eligible to receive a  
23 dividend;

24 (2) the ratio between employees on a certified payroll who  
25 are registered to vote in a state other than Alaska to those who are  
26 registered to vote in Alaska;

27 (d) The commissioner may consider information gathered from site  
28 surveys of construction projects including individual interviews,  
29 comparison of the state in which vehicles owned or operated by

1 employees are registered, and other information acquired from inspec-  
2 tion of certified payrolls when determining the ratio of nonresident  
3 to resident employees working on a public works project.

4 (e) The legislature finds that the following factors are reason-  
5 able indicators of the ratio of nonresident to resident employees in  
6 the state:

7 (1) the ratio between applicants for unemployment insurance  
8 claims who list an out-of-state residence compared to those applicants  
9 who list residences in the state;

10 (2) the ratio between applicants for unemployment compen-  
11 sation who did not apply for or were denied a permanent fund dividend  
12 to those applicants who were found eligible for a dividend.

13 (f) The legislature finds that

14 (1) the actual rate of unemployment among residents of the  
15 state is considerably higher than is reflected by unemployment rates  
16 based on nationally accepted measures;

17 (2) rural areas in the state have proportionately more  
18 resident workers who are unemployed but who are not reflected in the  
19 unemployment rates based on nationally accepted measures than do  
20 nonrural areas of the state;

21 (3) many unemployed rural state residents do not seek  
22 employment as frequently as necessary to fit federal definitions of  
23 unemployment because of continuing lack of employment opportunities in  
24 rural areas of the state.

25 (g) The legislature further finds that given the expense and  
26 difficulty of gathering and preparing information on unemployment for  
27 the state, it is reasonable, absent substantial evidence to the con-  
28 trary, for the commissioner of labor to rely on information and pro-  
29 jections to indicate trends and to implement remedies to unemployment

1 problems based on those trends.

2 \* Sec. 3. AS 36.10 is amended by adding new sections to read:

3 Sec. 36.10.130. RESIDENT HIRE REPORT. The attorney general and  
4 the commissioner of labor shall report annually to the legislature and  
5 the governor on the status of unemployment in the state, the effect of  
6 nonresident employment on unemployment in the state, and methods to  
7 increase resident hire. The report shall be submitted at least 30  
8 days before the first day of the legislative session.

9 Sec. 36.10.140. REGISTRATION REQUIRED. To be eligible for an  
10 employment preference under this chapter, a person must register with  
11 the Department of Labor or with a local hiring hall.

12 Sec. 36.10.150. DETERMINATION OF UNDEREMPLOYED AREA. (a)  
13 During the three fiscal years following a calendar year in which the  
14 commissioner of labor determines that an economic region of the state  
15 is an underemployed area or that the state as a whole is an underem-  
16 ployed area, at least 95 percent of the worker hours on a craft-by-  
17 craft basis shall be performed by residents of the area on each public  
18 works project under AS 36.10.180 that is wholly or partially sited  
19 within the area.

20 (b) The commissioner shall determine that an economic region of  
21 the state or the state as a whole is an underemployed area if the  
22 commissioner finds that

23 (1) the rate of unemployment within the area is higher than  
24 the national rate of unemployment;

25 (2) there is substantial unemployment in the area among  
26 persons seeking work in occupations that would be employed on a public  
27 works project; and

28 (3) employment of workers who are not residents of the area  
29 is a contributing cause of the unemployment of residents of the area.

1           Sec. 36.10.160. PREFERENCE FOR RESIDENTS OF ECONOMICALLY DIS-  
2 TRESSED AREAS. (a) During the three fiscal years following a calen-  
3 dar year in which the commissioner determines that a census area,  
4 census subarea, or an economic region of the state is an economically  
5 distressed area, at least 50 percent of employment on each project  
6 under AS 36.10.180 that is wholly or partially sited within the eco-  
7 nomically distressed area shall consist of residents of the area. The  
8 50 percent preference applies to worker hours on a craft-by-craft  
9 basis.

10           (b) The commissioner shall determine that an area is an econom-  
11 ically distressed area if the commissioner finds that

12           (1) the average annual family income of residents of the  
13 area is below the adjusted poverty guidelines of the federal Depart-  
14 ment of Health and Human Services or that the unemployment rate in the  
15 area exceeds the national rate of unemployment by at least five per-  
16 centage points; and

17           (2) employment of workers who are not residents of the area  
18 is a contributing cause of unemployment of residents of the area.

19           Sec. 36.10.170. PREFERENCE FOR ECONOMICALLY DISADVANTAGED MINOR-  
20 ITY RESIDENTS. (a) During the three fiscal years following a calen-  
21 dar year in which the commissioner determines that the minority resi-  
22 dents of a census area or census subarea are economically disadvan-  
23 taged, at least 25 percent of employment on each project under AS 36.-  
24 10.180 that is wholly or partially sited within the census area or  
25 census subarea shall consist of minority residents of the area. The  
26 25 percent preference applies to worker hours on a craft-by-craft  
27 basis.

28           (b) The commissioner shall determine that minority residents of  
29 a census area are economically disadvantaged if the commissioner finds

1 that

2 (1) the minority population of the census area exceeds the  
3 average minority population for the state;

4 (2) the percent of unemployment of minority residents of  
5 the area is at least two times the percent of unemployment of non-  
6 minority residents of the area; and

7 (3) employment of workers who are not residents of the area  
8 is a contributing cause of unemployment of minority residents of the  
9 area.

10 (c) In this section, a person is considered a member of a minor-  
11 ity if the person is a member of a racial or ethnic minority group  
12 recognized by the federal Bureau of the Census.

13 Sec. 36.10.180. SCOPE OF PREFERENCE. (a) The preferences  
14 established in AS 36.10.150 - 36.10.170 apply to

15 (1) the performance of contracts let by a municipality for  
16 construction, repair, preliminary surveys, engineering studies, con-  
17 sulting, maintenance work, or any other retention of services neces-  
18 sary to complete a given project; and

19 (2) a construction project that is partly or wholly funded  
20 by state money and to which the state or an agency of the state, a  
21 department, office, agency, state board, commission, regional school  
22 board with respect to an educational facility under AS 14.11.020,  
23 public corporation, or other organizational unit of or created under  
24 the executive, legislative or judicial branch of state government,  
25 including the University of Alaska, is a signatory to the construction  
26 contract.

27 (b) If the governor has declared an area to be an area effected  
28 by an economic disaster under AS 44.33.285, then the preference for  
29 residents of the area established under AS 44.33.285 - 44.33.310

1 supercedes the preference under AS 36.10.150 and 36.10.160 for con-  
2 tracts awarded by the state.

3 Sec. 36.10.900. EFFECT OF JUDICIAL DECISIONS. If a provision of  
4 this chapter, or the application of a provision to a person or circum-  
5 stance, is held invalid, the remainder of this chapter and the appli-  
6 cation to other persons or circumstances shall not be affected by the  
7 holding. The remainder shall be enforced to the greatest extent  
8 constitutionally permissible under the constitutions of the United  
9 States and the State of Alaska.

10 \* Sec. 4. The provisions of this Act do not apply to a contract entered  
11 into before the effective date of this Act.

12 \* Sec. 5. AS 36.10.010 is repealed.

13 \* Sec. 6. This Act takes effect February 16, 1986 or immediately, in  
14 accordance with AS 01.10.070(c), whichever is later, if the final decision  
15 of the Alaska Supreme Court in Robison v. Francis, File No. S-493, Opinion  
16 No. 3011, January 17, 1986, is not submitted for review to the United  
17 States Supreme Court. If the decision is submitted for review but the  
18 United States Supreme Court declines to accept review, then this Act takes  
19 effect on the date of the order of the United States Supreme Court declin-  
20 ing to accept review. If the United States Supreme Court accepts review,  
21 then this Act takes effect on the date of a final decision of the United  
22 States Supreme Court affirming the decision of the Alaska Supreme Court.