

SENATE BILL NO. 307

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS KERTTULA, Duncan

Introduced: 2/14/94
Referred: L&C, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a prevailing rate of wages for certain maritime workers and
2 to the consequences under the Little Davis Bacon Act of failure to pay wages
3 required by a contract."

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

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

6 Sec. 36.05.015. WAGES FOR CERTAIN MARITIME WORKERS. A
7 contractor or subcontractor who enters into a maritime contract with the state or a
8 political subdivision of the state for work to be performed in the state shall pay not
9 less than the current prevailing rate of wages for work of a similar nature in the state.
10 The current prevailing rate of wages is the rate contained in the latest determination
11 of the prevailing rate of wages issued by the Department of Labor at least 10 days
12 before the final date for submission of bids for the contract. The rate shall remain in
13 effect for the life of the contract or for 24 calendar months, whichever is shorter. At
14 the end of the initial 24-month period, if new wage determinations have been issued

1 by the department, the latest wage determination shall become effective for the next
2 24-month period or until the contract is completed, whichever occurs first. This
3 process shall be repeated until the contract is completed.

4 * Sec. 2. AS 36.05.020 is amended by adding a new subsection to read:

5 (b) A subcontract that is performed on a maritime contract may be reduced to
6 a basis of day labor for the purpose of determining whether or not the subcontractor
7 or contractors have complied with the requirement to pay maritime workers at not less
8 than the prevailing wage rate.

9 * Sec. 3. AS 36.05.035 is amended by adding a new subsection to read:

10 (b) Upon awarding a maritime contract, the state or a political subdivision of
11 the state shall immediately notify the commissioner of labor of the amount of the
12 contract, the effective date of the contract, the identity of the contractor and all
13 subcontractors, and the site or sites of the services to be provided and shall provide the
14 commissioner with a project description.

15 * Sec. 4. AS 36.05.040 is amended to read:

16 Sec. 36.05.040. FILING SCHEDULE OF EMPLOYEES, WAGES PAID, AND
17 OTHER INFORMATION. All contractors or subcontractors who perform work on a
18 public construction contract for the state or for a political subdivision of the state **and**
19 **all contractors and subcontractors who perform work on a maritime contract for**
20 **the state or a political subdivision of the state** shall, before the Friday of each week,
21 file with the Department of Labor a sworn affidavit for the previous week, setting out
22 in detail the number of persons employed, wages paid, job classification of each
23 employee, hours worked each day and week, and other information that the
24 Department of Labor requires.

25 * Sec. 5. AS 36.05.070 is amended by adding new subsections to read:

26 (d) The advertised specifications for a maritime contract exceeding \$2,000 to
27 which the state or a political subdivision of the state is a party that requires or involves
28 the employment of maritime workers must contain a provision stating the minimum
29 wages to be paid various classes of maritime workers and that the rate of wages shall
30 be adjusted to the wage rate under AS 36.05.010.

31 (e) A contract for maritime work in the state or in a political subdivision of

1 the state must contain provisions that

2 (1) the contractor or subcontractors of the contractor shall pay all
3 maritime workers unconditionally and not less than once a week;

4 (2) wages may not be less than those stated in the advertised
5 specifications, regardless of the contractual relationship between the contractor or
6 subcontractors and maritime workers;

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

9 (4) the state or a political subdivision of the state shall withhold so
10 much of the accrued payments as is necessary to pay to maritime workers employed
11 by the contractor or subcontractors the difference between the rates of wages

12 (A) required by the contract to be paid to maritime workers on
13 the work, and

14 (B) in fact received by maritime workers.

15 * Sec. 6. AS 36.05.080 is amended to read:

16 Sec. 36.05.080. FAILURE TO PAY AGREED WAGES. Every contract
17 within the scope of AS 36.05.070 must [SHALL] contain a provision that if it is found
18 that a laborer, mechanic, [OR] field surveyor, or maritime worker employed by the
19 contractor or subcontractor has been or is being paid a rate of wages less than the rate
20 of wages required by the contract to be paid, the state or its political subdivision shall
21 [MAY], by written notice to the contractor, terminate the contractor's right to proceed
22 with the work or the part of the work for which there is a failure to pay the required
23 wages and to prosecute the work to completion by contract or otherwise, and the
24 contractor and the contractor's sureties are liable to the state or its political subdivision
25 for excess costs for completing the work.

26 * Sec. 7. AS 36.05.090 is amended to read:

27 Sec. 36.05.090. PAYMENT OF WAGES FROM WITHHELD PAYMENTS
28 AND LISTING CONTRACTORS WHO VIOLATE CONTRACTS. (a) The state
29 disbursing officer in the case of a state contract and the local fiscal officer in the case
30 of a political subdivision contract shall pay directly to laborers, mechanics, [OR] field
31 surveyors, or maritime workers from accrued payments withheld under the terms of

1 the contract the wages due laborers, mechanics, [OR] field surveyors, or maritime
2 workers under AS 36.05.070.

3 (b) The state disbursing officer or the local fiscal officer shall distribute to all
4 departments of the state government and to all political subdivisions of the state a list
5 giving the names of persons who have disregarded their obligations to employees. A
6 person appearing on this list and a firm, corporation, partnership, or association in
7 which the person has an interest may not work as a contractor or subcontractor on a
8 public construction contract or maritime contract for the state or a political
9 subdivision of the state until three years after the date of publication of the list.

10 (c) If the accrued payments withheld under the contract are insufficient to
11 reimburse all the laborers, mechanics, [OR] field surveyors, or maritime workers with
12 respect to whom there has been a failure to pay the wages required under
13 AS 36.05.070, the laborers, mechanics, [OR] field surveyors, or maritime workers
14 have the right of action or intervention or both against the contractor and the
15 contractor's sureties conferred by law upon persons furnishing labor or materials, and
16 in the proceedings it is not a defense that the laborers, mechanics, [OR] field
17 surveyors, or maritime workers accepted or agreed to accept less than the required
18 rate of wages or voluntarily made refunds.

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

20 Sec. 36.05.300. DEFINITIONS. In this chapter,

21 (1) "maritime contract" means a contract for the state, a political
22 subdivision of the state, or a regional school board for services provided by a tug boat,
23 tug and barge, barge, freighter, supply boat, or oil spill response vessel;

24 (2) "maritime worker" means person performing work under a maritime
25 contract that requires that the person hold a merchant mariner document.

26 * Sec. 9. This Act applies to maritime contracts entered into on or after the effective date
27 of this Act.