

4/4

COMMITTEE REPORT HOUSE

(7)

FURTHER: FINANCE

2/8/85

Date: _____

The Committee on JUDICIARY has had HB 62

"An Act relating to the payment of prevailing wages and the payment of overtime under public construction contracts."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CS HB 62 (Jud) same title
 new title
- and recommends it do pass
- AND attaches a "Letter of Intent" New Fiscal Note
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature] no rec

[Signature]
CHAIRMAN

COMMITTEE REPORT
HOUSE

2/8
Judiciary

(7)

FURTHER: Finance

1/16/85

Date: _____

The Committee on Labor and Commerce has had HB 62

"An Act relating to the payment of prevailing wages and the payment of overtime under public construction contracts."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 62 (L+C) same title
- new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- OK, do not mention*
- referred to the _____ Committee *in sound*

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

NAVARRE *Mike Navarre*

KOPONEN *Alvin Koponen*

BOUCHER *Ed Boucher*

DAVIS *Mike Davis*

HANLEY *Clare Hanley - Do Not Pass*

PEARCE *Mike Pearce - do not pass*

COLLINS *John Collins - without amendment*

OK NOT PASS

(with front) - 5 amendments

Mike Navarre
CHAIRMAN

Offered: 4/4/85
Referred: Finance

Cromer

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 62 (Judiciary)

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) This section applies to all contracts for public construc-
22 tion in the state. The provisions of (a) of this section shall be set
23 out in all contracts to which this section applies.

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

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

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

1 (2) compel the attendance of witnesses and the production
2 of books, papers and documents;

3 (3) adopt [PROMULGATE] regulations;

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

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

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

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

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

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

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

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

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

1 (1) the contractor or [HIS] subcontractors of the contrac-
2 tor shall pay all employees unconditionally and not less than once a
3 week;

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

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

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

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

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

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

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

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

1 subdivisions of the state.

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

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

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

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

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

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

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

1 Sec. 36.05.115. ENFORCEMENT. (a) The attorney general may,
2 when requested by the Department of Labor, enforce the provisions of
3 this chapter.

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

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

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

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

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

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

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

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

19 (3) "public construction" or "public works" means the
20 on-site field surveying, erection, rehabilitation, alteration, exten-
21 sion or repair, including painting or redecorating of buildings,
22 highways or other improvements to real property under contract for the
23 state, a political subdivision of the state, or a regional school
24 board, when financed in whole or in part with public funds, or when
25 financed with funds obtained by pledge of any contract of a public
26 agency to make a loan, grant, or annual contribution, and regardless
27 of whether title to the improvements is in a public agency; the terms
28 do not include manufacturing, furnishing of materials, or servicing
29 and maintenance work;

1 * Sec. 11. AS 36.05.030(b) and AS 36.10.020 are repealed.
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Offered: 2/8/85
Referred: Judiciary and
Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

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

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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.
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28 wages;

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1 of books, papers and documents;

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9 the work;

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24 construction contract for the state or a political subdivision during
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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;

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Introduced: 1/16/85
Referred: Labor & Commerce,
Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 62

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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16 surveyor to work more than eight hours a day or more than 40 hours in
17 a week during that employment unless the laborer, mechanic, or field
18 surveyor receives compensation at a rate of pay not less than one and
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8 of the work;

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13 tor as is necessary to pay to laborers, mechanics, or field surveyors
14 employed by the contractor or subcontractors the difference between

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16 contract and AS 36.05.010 -- 36.05.115 [TO BE PAID LABORERS,
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13 initiate a proceeding to bar that person from bidding on or partici-
14 pating in future public construction contracts in the state. The
15 proceeding must be in accordance with the Administrative Procedure Act
16 (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
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 62

January 15, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that clarifies the applicability of overtime compensation statutes to work performed on public contracts, and that imposes sanctions for a contractor's failure to comply with those statutes.

The bill requires payment of time-and-a-half compensation to a worker for work in excess of eight hours a day or 40 hours a week, thus eliminating any question that employees on public construction contracts have the same overtime protections afforded all employees in the state under AS 23.10.060.

In addition to making several minor statutory changes, the bill also establishes or clarifies four other important provisions relating to the enforcement of the provisions of AS 36.05, concerning wages and hours of labor on public contracts. First, sec. 2 of the bill allows the Department of Labor to accept assignment of wage claims under the chapter and to pursue claims on behalf of a class of employees whether or not a wage assignment has been filed. The department often uncovers violations of AS 36.05, but, under existing law, is arguably precluded from collecting wages due on behalf of employees who have not requested its assistance. The amendment to AS 36.05.030(a) avoids that problem.

Second, sec. 6 of the bill provides that even if a public construction contract does not set out conditions that AS 36.05.070(c) requires to be included, these conditions are considered included in the contract. This precludes an employer from avoiding compliance with the chapter when a government agency fails to incorporate AS 36.05.070(c) in the public construction contract.

Third, sec. 8 of the bill authorizes the Department of Labor to bar persons who have failed to comply with the overtime and prevailing-wage requirements of the chapter from being awarded public construction contracts for up to three years. These persons would be entitled to the full protection of the Administrative Procedure Act (AS 44.62).

Fourth, secs. 3 and 9 of the bill authorize the attorney general to seek injunctive relief and civil penalties in the superior court for failure to comply with AS 36.05. Under existing AS 36.05.060, violation of the chapter is a misdemeanor. This enforcement mechanism has not been effective because of the nature of the penalty and the standard of proof required in criminal cases.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned above the printed name and title.

Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 62
 Title: "An Act relating to payment of prevailing wages....."
 Sponsor: Rules Committee
 Requestor: Rules Committee
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Labor Standards & Safety-Wage and Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas, Sr. Phone: 465-4870
 Division: Labor Standards & Safety Date: 1/10/85

Approved by Commissioner: Jim Robertson Date: 1/10/85
 Agency: Labor

- Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

02
4/4

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

Letter of Intent

CSHB 62 (Jud)

It was the intent of the House Judiciary Committee in amending AS 36.95.010(3) in Sec. 10 of CSHB 62 (Jud) that the definition of "public construction" and "public works" does not include financing provided by entities such as the Alaska Housing Finance Corporation, the Alaska Industrial Development Authority and similar entities which are not purchasing improvements for the use of the state, a political subdivision of the state or a regional school board.

A handwritten signature in cursive script, appearing to read "M.M. Miller".

M.M. Miller, Chairman
House Judiciary Committee

ALASKA STATE LEGISLATURE

14th Legislature FIRST Session

HOUSE BILL NO. 62

By RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating to the payment of prevailing wages and the payment of overtime under public construction contracts."

~~Payment/Public Construction~~
Introduced in the House .. 1/16..., 19. 35

HISTORY IN THE HOUSE

19 85

Jan. 16

Read first time and referred to Committee on

E&C, JUDICIARY AND FINANCE

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senate

Concurred in Senate amendment thus adopting:
VOTE

Failed to concur in Senate amendment; asked Senate to recede
VOTE

Senate receded from amendment
VOTE

Senate failed to recede from amendment
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House
VOTE

CC adopted by Senate
VOTE

To enrolling
Reported correctly enrolled
Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

Offered: 4/4/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 62 (Judiciary)
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) This section applies to all contracts for public construc-
22 tion in the state. The provisions of (a) of this section shall be set
23 out in all contracts to which this section applies.
24 * Sec. 2. AS 36.05.030(a) is amended to read:
25 (a) The Department of Labor has the authority to determine the
26 prevailing wage, and whether or not this chapter is being violated.
27 The department may when necessary for the enforcement of this chapter
28 (1) conduct investigations and hold hearings concerning
29 wages;

1 (2) compel the attendance of witnesses and the production
2 of books, papers and documents;

3 (3) adopt [PROMULGATE] regulations;

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

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

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

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

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

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

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

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

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

1 (1) the contractor or [HIS] subcontractors of the contrac-
2 tor shall pay all employees unconditionally and not less than once a
3 week;

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

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

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

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

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

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

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

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

1 subdivisions of the state.

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

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

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

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

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

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

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

1 Sec. 36.05.115. ENFORCEMENT. (a) The attorney general may,
2 when requested by the Department of Labor, enforce the provisions of
3 this chapter.

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

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

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

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

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

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

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

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

19 (3) "public construction" or "public works" means the
20 on-site field surveying, erection, rehabilitation, alteration, exten-
21 sion or repair, including painting or redecorating of buildings,
22 highways or other improvements to real property under contract for the
23 state, a political subdivision of the state, or a regional school
24 board, when financed in whole or in part with public funds, or when
25 financed with funds obtained by pledge of any contract of a public
26 agency to make a loan, grant, or annual contribution, and regardless
27 of whether title to the improvements is in a public agency; the terms
28 do not include manufacturing, furnishing of materials, or servicing
29 and maintenance work;

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

Offered: 2/8/85
Referred: Judiciary and
Finance

Original sponsor: Rules/Governor

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
and the payment of overtime under public construction
contracts."

7

8

9

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

10

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field surveyors may not require or permit a laborer, mechanic, or
field surveyor to work more than eight hours a day or more than 40
hours in a week during that employment unless the laborer, mechanic,
or field surveyor receives compensation for all work in excess of
eight hours a day or 40 hours a week at a rate of pay not less than
one and one-half times the employee's basic rate of pay.

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

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23

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prevailing wage, and whether or not this chapter is being violated.
The department may when necessary for the enforcement of this chapter

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(1) conduct investigations and hold hearings concerning
wages;

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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;

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6 construction project to whom wages are due under this chapter, regard-
7 less of whether a wage claim has been filed.

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11 is subject to a civil penalty of not more than \$25,000 for each vio-
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14 that a person has violated a provision of this chapter, a civil penal-
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2 once a week;

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5 between the contractor or subcontractors and laborers, mechanics, or
6 field surveyors;

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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
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13 shall withhold so much of the [ACCRUED] payments due the contractor as
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7 (3) enjoin a person found in violation of this chapter from
8 continuing to work on an existing public construction contract; and

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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.

Introduced: 2/16/85
Referred: Labor & Commerce,
Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 62

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."

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14 requires or involves the employment of laborers, mechanics, or field
15 surveyors may not require or permit a laborer, mechanic, or field
16 surveyor to work more than eight hours a day or more than 40 hours in
17 a week during that employment unless the laborer, mechanic, or field
18 surveyor receives compensation at a rate of pay not less than one and
19 one-half times that employee's basic rate of pay for all work in
20 excess of eight hours a day or 40 hours a week.

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

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- 1 of books, papers and documents;
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14 that a person has violated a provision of this chapter, a civil penal-

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21 of mechanics, laborers, or field surveyors must [SHALL] contain a

22 provision stating the minimum prevailing wages to be paid various

23 classes of laborers, mechanics, or field surveyors and that the rate

24 of wages must [SHALL] be adjusted to the wage rate for each pay period

25 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

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

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

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

15 (A) the rates of wages required to be paid by the
16 contract and AS 36.05.010 -- 36.05.115 [TO BE PAID LABORERS,
17 MECHANICS, OR FIELD SURVEYORS ON THE WORK], and

18 (B) the rates of wages in fact received [BY LABORERS,
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22 under (c)(4) of this section, it shall pay the amount withheld to the
23 Department of Labor for disbursement directly to the laborers, mechan-
24 ics, or fields surveyors who have not been paid the rates of wages
25 required by the contract and AS 36.05.010 -- 36.05.115.

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

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

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

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

11 Sec. 36.05.090. BARRING CONTRACT VIOLATORS. (a) If a person
12 violates a provision of this chapter, the Department of Labor may
13 initiate a proceeding to bar that person from bidding on or partici-
14 pating in future public construction contracts in the state. The
15 proceeding must be in accordance with the Administrative Procedure Act
16 (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. No person who has been barred and no firm,
22 corporation, partnership, or association in which the person has an
23 interest may work as a contractor or subcontractor on a public con-
24 struction contract for the state or a political subdivision during the
25 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 which 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 his or her 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.