

**HB**

**155**

**HFIN**

**FILE**



# FISCAL NOTE

**STATE OF ALASKA  
2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSHE 155(L&C)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: Public Construction Project Requirements

Department: Labor and Workforce Developme.  
 BRU: Labor Standards and Safety  
 Component: Wage and Hour

Sponsor: House Rules  
 Requester: House L&C

Component Number: 345

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	44.7	44.7	44.7	44.7	44.7	44.7
Travel						
Contractual	7.2	7.2	7.2	7.2	7.2	7.2
Supplies	2.0	0.2	0.2	0.2	0.2	0.2
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>53.9</b>	<b>52.1</b>	<b>52.1</b>	<b>52.1</b>	<b>52.1</b>	<b>52.1</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (Gen Fund 1004)</b>	<b>2,500.0</b>	<b>2,500.0</b>	<b>2,500.0</b>	<b>2,500.0</b>	<b>2,500.0</b>	<b>2,500.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	53.9	52.1	52.1	52.1	52.1	52.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>53.9</b>	<b>52.1</b>	<b>52.1</b>	<b>52.1</b>	<b>52.1</b>	<b>52.1</b>

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would amend AS 36.05.040 to require bi-weekly rather than weekly submission of certified payrolls to the Department of Labor and Workforce Development (DLWD), and the addition of a new section under AS 36.05.045 to institute a reporting requirement to DLWD at the beginning and end of a project. In addition, DLWD proposes to institute a new fee at the beginning of a project.

(Continued on second page.)

Prepared by: Hali Denton, Acting Director Phone: 465-4855  
 Division: Labor Standards & Safety Date/Time: 4/8/03 3:31 PM  
 Approved by: Greg O'Claray, Commissioner Date: 04/08/03  
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. CSHB 155(L&C)

ANALYSIS: (continued)

Under the new plan, contractors will submit an affidavit of compliance at the beginning of a project certifying intent to comply with prevailing wage laws. Submission of the affidavit of compliance will include a payment of one percent of the total contract value, up to a payment cap of \$5,000. Projects of less than \$25,000 will require filing of the affidavit, but are exempt from the payment of the fee. The contractor will continue the current practice of submitting payrolls to contracting agencies where required.

The department will be required to develop an electronic payroll filing system to be available to contractors by July 2004.

Based on a five-year average, with an estimated 1,000 projects opening per year and with an average contract value of approximately \$250,000, revenue is projected to be approximately \$2,500,000 in the first year. Succeeding years will increase or decrease with the number and value of public contracts let.

The department requests a new position: an Accounting Technician I to receive and account for the fees and manage the affidavits and certified payrolls in the Anchorage office.

The department proposes to begin collecting the fees July 1, 2003.

23-GH1119AS  
Craver  
5/1/03

adopted 5/5/03

**CS FOR HOUSE BILL NO. 155(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the submission of payroll information by contractors and  
2 subcontractors performing work on a public construction contract; requiring a notice of  
3 work by employers on public construction contracts; providing for the withholding of  
4 final payment for public construction contracts; and providing for an effective date."

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

6 \* Section 1. AS 36.05.040 is amended to read:

7           **Sec. 36.05.040. Filing schedule of employees, wages paid, and other**  
8 **information.** All contractors or subcontractors who perform work on a public  
9 construction contract for the state or for a political subdivision of the state shall, before  
10 the Friday of every second [EACH] week, file with the Department of Labor and  
11 Workforce Development a sworn affidavit for the previous reporting period  
12 [WEEK], setting out in detail the number of persons employed, wages paid, job  
13 classification of each employee, hours worked each day and week, and other  
14 information on a form provided by [THAT] the Department of Labor and Workforce

1 Development [REQUIRES].

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

3 **Sec. 36.05.045. Notice of work and completion; withholding of payment.**

4 (a) Before commencing work on a public construction contract, the person entering  
5 into the contract with a contracting agency shall designate a primary contractor for  
6 purposes of this section. Before work commences, the primary contractor shall file a  
7 notice of work with the Department of Labor and Workforce Development. The  
8 notice of work must list work to be performed under the public construction contract  
9 by each contractor who will perform any portion of work on the contract and the  
10 contract price being paid to each contractor. The primary contractor shall pay all  
11 filing fees for each contractor performing work on the contract, including a filing fee  
12 based on the contract price being paid for work performed by the primary contractor's  
13 employees. The filing fee payable shall be the sum of all fees calculated for each  
14 contractor. The filing fee shall be one percent of each contractor's contract price. The  
15 total filing fee payable by the primary contractor under this subsection may not exceed  
16 \$5,000. There is no fee for a contract under which the total amount payable by the  
17 contracting agency is less than \$25,000. In this subsection, "contractor" means an  
18 employer who is using employees to perform work on the public construction contract  
19 under the contract or a subcontract.

20 (b) Upon completion of all work on the public construction contract, the  
21 primary contractor shall file with the Department of Labor and Workforce  
22 Development a notice of completion together with payment of any additional filing  
23 fees owed due to increased contract amounts. Within 30 days after the department's  
24 receipt of the primary contractor's notice of completion, the department shall inform  
25 the contracting agency of the amount, if any, to be withheld from the final payment.

26 (c) A contracting agency

27 (1) may release final payment on a public construction contract to the  
28 extent that the agency has received verification from the Department of Labor and  
29 Workforce Development that

30 (A) the primary contractor has complied with (a) and (b) of this  
31 section;

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(B) the Department of Labor and Workforce Development is not conducting an investigation under this title; and

(C) the Department of Labor and Workforce Development has not issued a notice of a violation of this chapter to the primary contractor or any other contractors working on the public construction contract; and

(2) shall withhold from the final payment an amount sufficient to pay the department's estimate of what may be needed to compensate the employees of any contractors under investigation on this construction contract, and any unpaid filing fees

(d) The notice and filing fee required under (a) of this section may be filed after work has begun if

(1) the public construction contract is for work undertaken in immediate response to an emergency; and

(2) the notice and fees are filed not later than 14 days after the work has begun.

(e) A false statement made on a notice required by this section is punishable under AS 11.56.210.

\* Sec. 3. AS 36.05 is amended by adding a new section to read:

**Sec. 36.05.900. Definitions.** In this chapter, "contracting agency" means the state or a political subdivision of the state that has entered into a public construction contract with a contractor.

\* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

**CURRENT PUBLIC CONSTRUCTION CONTRACTS.** Notwithstanding AS 36.05.045, added by sec. 2 of this Act, a contractor or subcontractor that began work on a public construction contract before July 1, 2003, but has not completed the work before July 1, 2003, shall file a notice of work with the Department of Labor and Workforce Development. The contractor or subcontractor shall file the notice not later than 30 days after the Department of Labor and Workforce Development provides the contractor or subcontractor with a copy of the notice form. The contractor or subcontractor is not required to pay a fee for filing.

1     \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3           **ONLINE PAYROLL REPORTING.** Not later than July 1, 2004, the Department of  
4 Labor and Workforce Development shall provide for filing of payroll reports as required in  
5 AS 36.05.040, amended by sec. 1 of this Act, by secure online electronic filing.

6     \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8           **TRANSITIONAL PROVISIONS: REGULATIONS.** Notwithstanding sec. 8 of this  
9 Act, the Department of Labor and Workforce Development may proceed to adopt regulations  
10 necessary to implement the changes made by this Act. The regulations take effect under  
11 AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant  
12 statutory change.

13     \* **Sec. 7.** Sections 4 and 6 of this Act take effect immediately under AS 01.10.070(c).

14     \* **Sec. 8.** Except as provided in sec. 7 of this Act, this Act takes effect July 1, 2003.

Failed 3-7-

23-GH1119S.J  
Craver  
5/5/03

AMENDMENT |

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: CSHB 155(FIN), Draft Version "S"

1 Page 3, lines 6 - 9:

2 Delete "an amount sufficient to pay the department's estimate of what may be needed  
3 to compensate the employees of any contractors under investigation on this construction  
4 contract, and any unpaid filing fees"

5 Insert "any unpaid filing fees owed by any contractor, and the portion of the final  
6 payment owed to any contractor who is being investigated under this title"

Found 4-6

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE

2

BY: REPRESENTATIVE CROFT

TO: CSHB 155(FIN) "S"

Page 2, lines 17 through 19, after "\$25,000.":

Delete all text.

Page 3, after line 22:

Insert a new bill section to read:

“\*Sec.4. AS 37.05.146(c) is amended by adding a new paragraph to read:

(77) fees received by the Department of Labor and Workforce

Development under AS 36.05.045.”

Renumber accordingly.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 21, 2003

**SUBJECT:** Sectional Summary CSHB 155(FIN)  
(Work Order No. 23-GH1119)

**TO:** Representative Bill Williams  
Attn: Randy Ruaro

**FROM:** Barbara R. Craver *BRC*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** This section amends AS 36.05.040 to allow the certified payroll statement required by this section to be filed every two weeks, instead of weekly.

**Section 2.** This section adds a new section to AS 36.05. The new section

- requires a primary contractor to be designated for each public contract;
- the primary contractor must file a "notice of work" with the Department;
- the "notice of work" lists each component of the contract by the contractor performing that portion of the work and the contract price for that portion of work;
- the primary contractor is responsible for paying the filing fees of all other contractors, the filing fee is one percent of the contract price but cannot exceed \$5,000;
- there is no filing fee for a contract of less than \$25,000;
- when the work on the contract is complete the primary contractor files a "notice of completion";
- the department has 30 days to notify the contractor of any amount of the final payment to be withheld, the contracting agency must hold onto an amount sufficient to pay employees working on any part of the contract which might be under investigation, as well as any unpaid filing fees due to increased contract costs;
- there is an exception to the rule that the notice of work and filing fee is to be filed before work can be started in the case of work undertaken in response to an emergency;

Representative Bill Williams

April 21, 2003

Page 2

- a false statement made on a notice required by this section is punishable under AS 11.56.210 (Unsworn falsification.)

**Section 3.** A definitions section is added to AS 36.05 to define "contracting agency" and to limit the meaning of "public construction" in this chapter. The change would mean that the term does not include remodeling or repairs for less than \$100,000 by tenants in a state owned building.

**Section 4.** Provides that a public construction contract begun before July 1, 2003 is not subject to the filing fees, but must provide the notice of work form to the department.

**Section 5.** Directs the department to allow for online electronic filing of payroll reports by July 1, 2004.

**Section 6.** Directs the department to begin drafting regulations which shall take effect no sooner than the effective date of the law.

**Sections 7 & 8.** Effective date sections - Sec. 7 says that secs 4 & 6 take effect immediately and that the rest of the act takes effect July 1, 2003.

BRC:med

03-422.med

23-GH1119\Q  
Craver  
4/16/03

*incorporates #1*

**CS FOR HOUSE BILL NO. 155(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

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11 Workforce Development a sworn affidavit for the previous reporting period  
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14 contractor. The filing fee shall be one percent of each contractor's contract price. The  
15 total filing fee payable by the primary contractor under this subsection may not exceed  
16 \$5,000. There is no fee for a contract under which the total amount payable by the  
17 contracting agency is less than \$25,000. In this subsection, "contractor" means an  
18 employer who is using employees to perform work on the public construction contract  
19 under the contract or a subcontract.

20 (b) Upon completion of all work on the public construction contract, the  
21 primary contractor shall file with the Department of Labor and Workforce  
22 Development a notice of completion, together with payment of any additional filing  
23 fees owed due to increased contract amounts. Within 30 days after the department's  
24 receipt of the primary contractor's notice of completion, the department shall inform  
25 the contracting agency of the amount, if any, to be withheld from the final payment.

26 (c) A contracting agency

27 (1) may release final payment on a public construction contract to the  
28 extent that the agency has received verification from the Department of Labor and  
29 Workforce Development that

30 (A) the primary contractor has complied with (a) and (b) of this  
31 section;

1 (B) the Department of Labor and Workforce Development is  
2 not conducting an investigation under this title; and

3 (C) the Department of Labor and Workforce Development has  
4 not issued a notice of a violation of this chapter to the primary contractor or  
5 any other contractors working on the public construction contract; and

6 (2) shall withhold from the final payment an amount sufficient to pay  
7 the department's estimate of what may be needed to compensate the employees of any  
8 contractors under investigation on this construction contract, and any unpaid filing  
9 fees.

10 (d) The notice and filing fee required under (a) of this section may be filed  
11 after work has begun if

12 (1) the public construction contract is for work undertaken in  
13 immediate response to an emergency; and

14 (2) the notice and fees are filed not later than 14 days after the work  
15 has begun.

16 (e) A false statement made on a notice required by this section is punishable  
17 under AS 11.56.210.

18 \* **Sec. 3.** AS 36.05 is amended by adding a new section to read:

19 **Sec. 36.05.900. Definitions.** In this chapter,

20 (1) "contracting agency" means the state or a political subdivision of  
21 the state that has entered into a public construction contract with a contractor;

22 (2) "public construction" does not include alterations or repairs of less  
23 than \$100,000 undertaken by tenants of a building owned or controlled by the state for  
24 government or public use after the initial construction or acquisition of the building by  
25 the state, notwithstanding AS 36.95.010.

26 \* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to  
27 read:

28 **CURRENT PUBLIC CONSTRUCTION CONTRACTS.** Notwithstanding  
29 AS 36.05.045, added by sec. 2 of this Act, a contractor or subcontractor that began work on a  
30 public construction contract before July 1, 2003, but has not completed the work before  
31 July 1, 2003, shall file a notice of work with the Department of Labor and Workforce

1 Development. The contractor or subcontractor shall file the notice not later than 30 days after  
2 the Department of Labor and Workforce Development provides the contractor or  
3 subcontractor with a copy of the notice form. The contractor or subcontractor is not required  
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10 \* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 **TRANSITIONAL PROVISIONS: REGULATIONS.** Notwithstanding sec. 8 of this  
13 Act, the Department of Labor and Workforce Development may proceed to adopt regulations  
14 necessary to implement the changes made by this Act. The regulations take effect under  
15 AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant  
16 statutory change.

17 \* Sec. 7. Sections 4 and 6 of this Act take effect immediately under AS 01.10.070(c).

18 \* Sec. 8. Except as provided in sec. 7 of this Act, this Act takes effect July 1, 2003.

**ASSOCIATED GENERAL CONTRACTORS of ALASKA**

8005 SCHOON STREET • ANCHORAGE, ALASKA 99518  
TELEPHONE (907) 561-5354 • FAX (907) 562-6118

**May 5, 2003**

**Representative Bill Williams, Co-Chair  
Representative John Harris, Co-Chair  
House of Representatives Finance Committee  
State of Alaska  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182**

**VIA FAX: 907-465-3793**

**Re: HB 155**

**Dear Representatives Williams and Harris:**

**After expressing concerns with earlier versions of HB 155, AGC has worked with the Department of Labor to modify the bill to address AGC's concerns. The amended version before the committee this morning is a product of that discussion and is acceptable to the construction industry.**

**With regards,**

**Richard Cattauach  
Executive Director**

## Department of Labor and Workforce Development

### Briefing Paper –HB 155/CSSB 111 (L&C) Alaska Department of Labor of Workforce Development

This bill will alter the language in Title 36.05. to no longer require contractors on public works jobs to submit weekly certified payrolls (CPR) to the Department of Labor and Workforce Development. Instead, payrolls will be submitted every two weeks.

In addition, prime contractors on a project must file with the Department a notice of work, and pay a filing fee for the prime and each subcontractor on the project. Filing fees are equal to 1% of the sum of each contractor and subcontractor's contract price not to exceed a total amount of \$5,000 in the aggregate. The filing fee applies only to those projects with a total contract value in excess of \$25,000. Special allowance is made for late filing of the notice of work requirement for emergency work.

At the end of a project, each prime contractor will file with the Department a notice of completion and pay any additional filing fees necessitated by any increases in the contract amounts.

With in 30 days of receipt of the notice of completion, the Department will notify the contracting agency of the need to withhold any amounts on the contract to ensure compliance with AS 36.

The Act also redefines public construction to exclude tenant improvements with a total value of less than \$100,000, in a building owned or controlled by the state for government or public use after the initial construction or acquisition of the building.

Contractors working on public projects begun before July 1, 2003 are exempted from the filing fee but must file the notice of work on a form provided by the department.

Finally, the bill requires the department to provide a mechanism for the electronic filing of certified payrolls by July 1, 2004.

April 22, 2003

THE  
FOLLOWING  
DOCUMENT(S)  
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NEESER CONSTRUCTION INC.  
General Contractors

Representative Bill Williams, Co-Chair  
Representative John Harris, Co-Chair  
Finance Committee  
Alaska House of Representatives  
Alaska State Capitol (3100)  
Juneau, Alaska 99801-1182

April 10, 2003

Re: CS for House Bill No.155 (L&C)  
Subject: Request for Language Changes

Dear Co- Chairs

We are writing to request changes in the language of House Bill No. 155 which will hopefully avoid unnecessary withholding of Contractor funds on State Construction projects.

As a General Contractor in the State of Alaska for many years we have always been concerned about any additional reporting requirements and additional fees which increase the cost of doing work and complicate even further the process of getting paid on State Construction projects. However it has been explained to us by the Associated General Contractors of which we are a member in good standing, that there is a need for the additional revenue which would be generated by the filing fee proposed by House Bill No.155. While it not exactly a joyful acknowledgement we can deal with the expense by passing the cost on to our customers. However the potential for unnecessarily withholding of final payment is yet another matter.

Please take notice to section 2 paragraph C it states "A contracting agency may not release final payment on a public construction contract until the agency has received verification from the Department of Labor and Workforce Development that (1) the primary contractor has complied with(a) and (b) of this section and that all sub-contractors have signed the affidavit". While it is understood that the power to with hold funds until resolution is needed to enforce the regulation it seems as though the proposed language is too punitive and too rigid lacking the discretionary authority of the Contraction Officer or person in authority over the construction contract. It is our understanding the Contracting Officers make decisions regularly through out the Construction Contract which have more monetary significance than the administration of certified payroll regulations. It would seem as though the language could be made better by revising the first sentence to read "A contracting agency may withhold final payment on a public construction contract until the agency has received verification from the Department of Labor and Workforce Development that" (1) (2) (3) ( have been complied with).

**BRADY & COMPANY**  
INCORPORATED

Brady Building  
1031 W. 4th Avenue, Suite 400  
P.O. Box 107502 • Anchorage, AK 99510-7502

Representative Bill Williams, Co-Chair  
Representative John Harris, Co-Chair  
Finance Committee  
Alaska House of Representatives  
Alaska State Capitol (3100)  
Juneau, Alaska 99801-1182

Re: HB 155

Dear Co-Chairs:

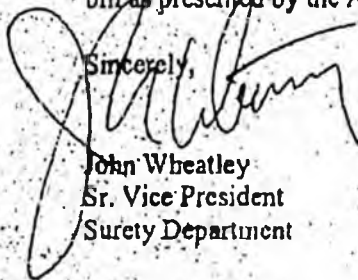
Thank you for the opportunity to express my concern of the terms of HB 155. Section 2 sub section (c) states: Final payment will not be released (by the contracting department) until DOL verifies that all contractors have signed an affidavit indicating that they have paid the prevailing wage; DOL is not conducting an investigation; and DOL has not issued a notice of a violation of this chapter to the primary contractor or any other contractor working on the job.

This seems to penalize the contractors who are complying with the requirement because of actions of contractors not complying with the requirement. Also, there is no penalty for the contractors not complying with the requirement.

Because of the fee schedule expressed in section 2, sub section (a), cost of public construction will increase on a statewide basis. Because of the filing requirements expressed in section 1, paperwork to comply will increase thereby increasing construction costs as well.

I oppose this bill as currently structured and request you seriously consider changes to the bill as presented by the Associated General Contractors.

Sincerely,



John Wheatley  
Sr. Vice President  
Surety Department

The question could be asked why not just comply with the regulation and get paid final payment? Well that is not as simple as it seems this regulation requires the General Contractor to administer the payroll of all their Subcontractors and their sub-tier Subcontractors which at times can be difficult due to how small the sub-tier Subcontractors can be. In many cases it is difficult to get their compliance ( they don't like paperwork) in most cases they have little time after working construction all day to do their compliance registration so they just procrastinate. We only ask that the Contracting Officer retain the authority to withhold the final payment based on the amount of money at risk and the likelihood of resolution of the compliance problem. This should avoid unnecessarily withholding more money than is necessary to obtain compliance with the regulation.

Please consider this request in any revision to House Bill No. 155 as it seems the only way to treat the General Contractors of the this State fairly with regards to these additional regulatory requirements.

Sincerely,

Neeser Construction Inc.



George Tuckness, Project Manager

## Briefing Paper – HB 155

### Alaska Department of Labor of Workforce Development

This bill will alter the language Title 36 of Alaska Statutes so that contractors on public works projects are no longer required to submit weekly-certified payrolls (CPR) to the Department of Labor and Workforce Development (DOL).

In place of the CPR, all contractors or subcontractors on a project must file with the DOL a **Notice of Intent** to perform public work, along with a \$100.00 fee. The notice would be on a form provided by the department and include identifying information about the project and the contractor and a statement that the contractor fully understands his/her responsibilities to workers under Title 36 and will comply with its requirements. The **Notice of Intent** will inform the department that each contractor is aware of the proper prevailing rates of pay.

At the end of their portion of the project each contractor or subcontractor will file with DOL an **Affidavit of Compliance**, on a form provided by the department, along with a \$100.00 fee. The affidavit will state that the contractor has completed work on the project and have complied with the requirements of Title 36 with regard to payment of proper prevailing wages and residence preference. The Affidavit of Compliance will provide an instrument for closure on projects and a sworn attestation of compliance with the Act.

The advantage to contractors is that they will no longer have to file the CPR's weekly with the department. In most cases where federal money is involved, CPR's are already filed with the contracting agency. This will eliminate the duplication, yet the payrolls will be accessible for audit purposes in the event of a complaint or investigation. The contracting agency will not be required to audit the payrolls, although the Department of Transportation and Public Facilities (DOTPF) already performed certain tasks to satisfy federal grants on most of their projects.

Presently, many contracting agencies will not make final payment on a project until they have clearance from DOL. Under this plan the department will check its files for the final affidavits. This will make the process of issuing a clearance much quicker and the final payment to get to the contractor sooner.

This bill will enable the department to put its resources in the field where they are needed instead of tying them to an office filing CPR's.

**ALASKA STATE LEGISLATURE**  
**House of Representatives**

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
LEGISLATIVE ETHICS COMMITTEE, MEMBER

website: <http://www.akrepublicans.org/rokeberg/>



INTERIM:  
716 WEST 4TH AVENUE, SUITE 300  
ANCHORAGE, AK 99501  
PHONE: (907) 269-0117  
FAX: (907) 269-0119

SESSION:  
ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-1968  
FAX: (907) 465-2040

**Representative Norman Rokeberg**

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

**MEMORANDUM**

To: House Labor & Commerce Committee  
From: Representative Norman Rokeberg  
Date: April 4, 2003  
Re: Amendment to HB 155

A handwritten signature in black ink, appearing to be "Norman Rokeberg", written over the "From:" line of the memorandum.

*Not  
Accepted*

Having spent some 30 years in the commercial real estate business, specializing in office space leasing and development, I believe the current statutory provision requiring prevailing wage rates on state leasehold interest is counter productive and extremely costly.

Many landlords engage union shops in the initial core and shell construction phases. However, during tenant fit-up (building the actual interior office space), it is a customary practice to use a mix of union and non-union shops or non-union shops. This is due to 1) lowering the cost of the job and 2) many union shops don't want the work because it is too small and piecemeal.

Bottom line is that this artificial requirement unnecessarily drives up state occupancy costs.



## Denali Drilling

April 8, 2003

Representative Bill Williams  
State Capitol, Room 515  
Juneau, AK 99801

Ref: HB 155  
Public Construction Project Requirements

Dear Mr. Williams,

I am strongly opposed to House Bill 155 relating to the submission of payroll information by contractors and subcontractors performing work on public construction contracts.

This will result in added costs to the subcontractor not only with the filing fees but with the withholding of funds until the contracting agency is satisfied with the three stipulations in Sec. 2, AS36.05.045 (c). They could hold back money indefinitely putting the subcontractor in an economic situation. This section needs to be eliminated completely.

I would be happy to discuss this with you further.

Sincerely,  
DENALI DRILLING, INC.

Neal Ingalls  
President

HI:kh



# TAM CONSTRUCTION, INC.

General Contractor

10200 Nigh Road

P.O. Box 111186  
Anchorage, AK 99511-1186

Phone (907) 344-4581  
FAX (907) 349-4731

Wednesday, April 09, 2003

House Finance Committee Members  
Juneau AK 99801-1182

RE: CS HB155  
Dispatching: Faxed

Dear Representatives:

I oppose CS HB155.

- RE: Sec. 2. AS 36.05.045 (c) You can not reasonably withhold funds from the Contractor and all subcontractors because one company is not in compliance. A Subcontractor is by definition an independent businessman; therefore a Prime Contracto. cannot control the Subcontractor's business practices beyond the specific jobsite. It seems to me that this "withholding" is in direct violation of Alaska Statute 36.25.020 relating to payment of subcontractors.
- Furthermore, it is equally unfair to require withholding from a subcontractor who completes their work in the early stages of a two-year project, e.g. the clearing and grubbing or surveying subcontractors. Timely cash flow is critical to maintain a small business. Provision must be made to grant clearance for subcontractors as their work is completed.
- RE: Sec. 2. AS 36.05.045 On a long-term project it is not always possible to identify all the subcontractors in advance of the start of work. Provision needs to be made for notification and clearance of subcontractors and/or service companies who are called out unexpectedly to the jobsite.

Please oppose CS HB155.

Sincerely,

*K. A. Eaton, SecTreas*

K. A. Eaton,  
Sec.-Treas.

Bill McKeever, President

"Specializing in underground construction and earth work."



SB / HB  
111 / 155

ALASKA

March 21, 2003

Senator Con Bunde, Chairman  
Senate Labor & Commerce Committee  
Room 506 State Capitol  
Juneau, Alaska 99801-1182

Subject: Senate Bill 111

Dear Senator Bunde,

The Leadership Council of the National Federation of Independent Business voted recently to oppose Senate Bill 111 and the companion legislation, House Bill 155.

The bill requires each contractor and subcontractor to file a notice of intent to pay prevailing wages to the Department of Labor and pay a \$100 fee prior to beginning work on a public construction project. An affidavit of wages paid must also be filed with the department upon completion of the project with another \$100 fee due at that time. This is particularly unfair to small specialty contractors who work on numerous jobs with many taking a few days or less to complete.

The Department of Labor has stated that the bill is an advantage to the contractor because they will no longer be required to submit weekly-certified payrolls to the Department of Labor. However the bill requires that the contractor file a certified payroll each week with the contracting agency on a form provided by the Department of Labor.

The bill restricts a contracting agency from release of final payment until it has received verification from the Department of Labor that the contractor and all subcontractors have:

- 1) paid their fees,
- 2) that the Department of Labor is not conducting an investigation regarding payment of prevailing wages
- 3) and that the department has not issued a notice of violation to the contractor or a subcontractor.

This appears that no contractor could be paid if the any of the contractors were in violation or being investigated for violation of this chapter.

Attached to this letter are six letters from small businesses regarding House Bill 155, the companion bill to Senate Bill 111.

Sincerely,

Thyes Shaub, NFIB Lobbyist

*Alpine General Contractors, Inc.*

P.O. Box 200985  
Anchorage, Alaska 99520

(907) 522-2100  
FAX 522-2111

April 8, 2003

Representative John Harris & Representative Bill Williams  
Fax 465-3799 Fax 465-3793

Re: Opposition to House Bill #155

Sirs,

We oppose HB155 for several reasons.

#1 – Any additional fees charged by DOL will be charged back to the owners of the projects – all are public entities subsidized by our taxes, making those projects cost more. In effect DOL will be making \$1,150,000 (per their projections) but the owners of the projects – DOT, Anchorage School District, MOA, etc... will have to pay more for their jobs. All of those contracting agencies are funded by our tax dollars, so how can you really say that DOL has made \$1,150,000.00? In reality they will have cost everyone more money, because contractors are going to boost their prices to reflect the new paperwork and fees.

#2 – A good number of contracting agencies do not monitor the certified payrolls at this time, however will now have to & will have to hire additional personnel to do that. The cost of any project will rise some more.

#3 - The July 1, 2003 start date for this new fee is unreasonable as contracts have already been issued or are being negotiated without prior notice of this new fee.

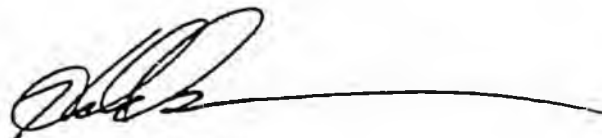
#4 – DOL says they are going to be able to cut a Wage & Hour Tech. They may cut the position of the person who now handles the certified payrolls, but they will have to hire a new someone to verify compliance of the contractors and authorize fund releases.

#5 – Payment for work will be slowed down & possibly held up for undetermined amounts of time if any of the contractors/subcontractors are not in compliance. This is hardly fair to those who are.

Sincerely,



Jacqueline D. Horner  
Secretary/Treasurer



Harold L. Horner  
President

CC: Finance Committee Members  
Thyes Shaub, NFIB Ak State Director

FROM  
DEPT. OF LABOR

Wage and Hour Statistics on Public Works Projects

FY	Total project actions (openings and closures)	Average # of contractors per project	Total contractors paying \$100 fees	Fee of \$100	Total potential revenue
02	2,892	5	14,460	100	\$ 1,446,000
01	2,500	5	12,500	100	\$ 1,250,000
00	1,813	5	9,065	100	\$ 906,500
99	2,221	5	11,105	100	\$ 1,110,500
98	2,159	5	10,795	100	\$ 1,079,500
<b>5 year average</b>					
	2,317	5	11,585	100	\$ 1,158,500



SB / HB  
111 / 155

ALASKA

March 21, 2003

Senator Con Bunde, Chairman  
Senate Labor & Commerce Committee  
Room 506 State Capitol  
Juneau, Alaska 99801-1182

Subject: Senate Bill 111

Dear Senator Bunde,

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The Department of Labor has stated that the bill is an advantage to the contractor because they will no longer be required to submit weekly-certified payrolls to the Department of Labor. However the bill requires that the contractor file a certified payroll each week with the contracting agency on a form provided by the Department of Labor.

The bill restricts a contracting agency from release of final payment until it has received verification from the Department of Labor that the contractor and all subcontractors have:

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- 3) and that the department has not issued a notice of violation to the contractor or a subcontractor.

This appears that no contractor could be paid if the any of the contractors were in violation or being investigated for violation of this chapter.

Attached to this letter are six letters from small businesses regarding House Bill 155, the companion bill to Senate Bill 111.

Sincerely,

Thyes Shaub, NFIB Lobbyist

**Key Bookkeeping**

Charity A. Seslar

8800 Glacier Hwy, Ste 224

Juneau, AK 99801

Ph: (907)789-0899

Fx: (907)789-1208

E-mail: [keybook@aol.com](mailto:keybook@aol.com)

Representative Anderson  
State Capitol  
Juneau, AK

RE: House Bill #155

March 13, 2003

Dear Mr. Anderson,

The whole theory behind certified payroll reporting needs a good hard look, and in my opinion should be eliminated entirely. The mere fact that the reporting is required to begin with puts undue burden upon the employer. I can't IMAGINE attaching fees along with it.

Currently, I have only one certified payroll client. This client has on average, at any given time has at least 6 certified jobs active at the same time. Although generally, he and his one employee may work on only one or two jobs per week, we are STILL obligated to file weekly ZERO reports for the jobs with NO activity. I have one job that I've been filing zero reports now for months. Some jobs are short term, perhaps a month, from start to completion, barely leaving time to even GATHER the DOL job number from the state. Whether my client has activity on a job, or not, he is paying for my time to file these reports.

If I were convinced that any of this busy work-paper shuffling even made a difference in the lives of the laborers that it is intended to protect, I might have a different attitude on the subject. But, to my knowledge, these reports are not even being reviewed in a timely matter (if at all), by DOL.

The irony to all of this is that if an employer were being dishonest and chose to break the wage and hours laws, there is no other reconciliation in place to cross check with any other payroll records that the company maintains. I wonder if the \$200.00 fee could even begin to cover the costs of clearing up the

current reporting backlog, let alone improving upon it. The whole thing is entirely meaningless.

I would also imagine that if an employee was not being paid the correct prevailing wage under AK State law, the DOL would be the FIRST to hear about it, DIRECT FROM THE EMPLOYEE. The laborers out there are far smarter that they're being given credit for.

I've worked closely with the DOL (mainly the unemployment tax division) for seven years, and have found them to be the most helpful department of ALL of the government agencies. Let them focus on other issues that truly matter, and eliminate the busy work that serves absolutely no one.

Thank you for your time.

Sincerely,



Charity A Seslar  
Owner, Key Bookkeeping



March 13, 2003

**CONSOLIDATED ENTERPRISES, INC.**633 E. 81ST AVENUE • ANCHORAGE, ALASKA 99518-3145  
TELEPHONE (907) 344-4567 • FAX (907) 349-8390

Re: House Bill No. 155

Dear Representative Anderson:

This letter is to inform you of our objection of House Bill No. 155.

It is in our opinion that AS 36.05.040, in its amended verbage is not feasible or reasonable to the general contractor, subcontractor, or contracting agency for the following reasons:

1. Each specific contracting agency will not be uniform and consistent in their knowledge or application of the certified payroll requirements. What is acceptable procedure to one agency may not be to another.
2. Each specific contracting agency is not equipped to handle this paperwork burden. At this time, there are contracting agencies that do not even require the certified payroll form be sent to them, as they can get an accurate clearance from the Department of Labor.
3. Eliminating one Wage and Hour technician that is filing the certified payrolls is a mute point. The Department of Labor will surely need help in filing affidavits and collecting fees from the proposed AS 36.05.045.
4. Each contracting agency will need to hire additional help to handle the additional paperwork burden. This cost will surely be passed down to the taxpayer.

This house bill puts too much authority and power in the hands of the contracting agency. Will each contracting agency then have the power to fine contractors and subcontractors for not filing timely certified payroll forms? Where will the fine line of the contracting agencies power to collect the certified forms and their power to enforce their quality be drawn?

The proposed AS 36.05.045 is outrageous! Requiring that a contractor pay \$100.00 for their *intent* to comply with legal statutes is not acceptable. Where will this stop? Shall we then have to pay for our *intent* to contribute fringe benefits to the appropriate trust, as required in AAC 30.025?

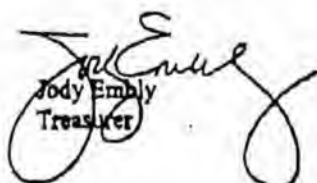
That is not enough, AS 36.05.045, as proposed, will then require contractors to pay for an affidavit stating they *did* comply with the law, and pay yet another \$100.00. Only then, will we be able to collect our final payment on a project.

It is our belief that there are problems with the Department of Labor's paperwork burden. We do not believe that this House Bill is conducive to solving that problem.

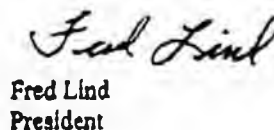
We respectfully request that you do not support this bill.

Sincerely,

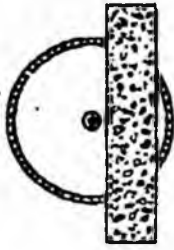
CONSOLIDATED ENTERPRISES, INC.



Jody Embly  
Treasurer



Fred Lind  
President



# ALASKA CONCRETE SAWING, INC.

6331 DeBarr Road  
Anchorage, AK 99504  
Phone: (907) 338-3300  
FAX: (907) 338-7162

FAX TRANSMITTAL

DATE: 3/14/03 TO: TOM ANDERSON

ATTN: \_\_\_\_\_ REC'V FAX # 465-2418

RE: HB # 155

PAGE 1 OF 1

MESSAGE:

WE ARE FREQUENTLY ON THESE JOBS  
FOR LESS THAN 4 HRS!  
THESE FEES WILL BE CHARGED REGARDLESS  
OF PROJECT SIZE

DEFEAT HB 155



# TAM CONSTRUCTION, INC.

General Contractor

10200 Nigh Road

P.O. Box 111186  
Anchorage, AK 99511-1186

Phone (907) 344-4581  
FAX (907) 349-4731

Thursday, March 13, 2003

Representative Tom Anderson  
Room 432  
State Capitol  
Juneau AK 99801-1182

RE: HB155  
Dispatching: Faxed to 907-465-2418

Dear Representative Anderson,

I oppose HB155.

- DOL states they will save money by eliminating the technician position but the cost to the taxpayers is increased many times over by requiring each contracting agency to establish a program and then hire a technician. Furthermore, who will then process the filed notices and provide the verifications to the Contracting Agencies?
- The fees are especially harsh on small specialty contractors who spend only a few days at each jobsite. The result must be a sharp increase in price for their work or they will soon be out of business. This increase will be passed back to the State as part of the construction contract price. Where is the savings in that?
- RE: Sec. 2. (c) You can not reasonably withhold funds from the Contractor and all subcontractors because one company is not in compliance. It is not justice when all must pay for the crime of one.

In the DOL Analysis it is stated that "This will eliminate the duplicate volume of paper that is currently processed". If they want to save money why don't they just eliminate the requirements that create the "duplicate volume of paper".

Please oppose HB155.

Sincerely,

*K. A. Eaton, Sec Treas*

Kathleen A. Eaton,  
Sec.-Treas.

CC: Labor & Commerce Committee Members

*Bill Walker, President*  
"Specializing in underground construction and earth work."

*Alpine General Contractors, Inc.*

P.O. Box 200985  
Anchorage, Alaska 99520

(907) 522-2100  
FAX 522-2111

March 13, 2003

Representative Tom Anderson  
Fax 465-2418

Re: Opposition to House Bill #155

Mr. Anderson,

We object strongly to HB155 for several reasons.

#1 - The additional \$200.00 fees are going to be charged back to the owners of the projects - who are all public entities subsidized by our taxes, making those projects cost more. Actually most companies will probably charge back more than \$200 because of the extra paperwork & time involved in filing.

#2 - The fees are to be charged regardless of the size of the contract or subcontract - We are frequently on multi million jobs where we do under \$2,000.00 or even under \$1,000.00 worth of work.

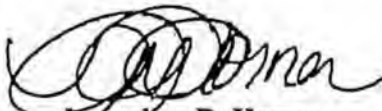
#3 - Each of the contracting agencies are going to be forced to hire more personnel to maintain the certified payroll records, now the costs have risen again for the project.

#4 - Payment for completed work is going to be delayed further while DOL makes sure we've complied, this is not required by the present system as they have the records.

#5 - The additional \$200.00 fees - According to the DOL analysis you will be eliminating a Wage & Hour Technician - however now you'll have to have someone call & verify to the contracting agencies that the contractors have complied - you haven't really incurred new costs nor have you cut personnel.

Please do not support this bill.

Sincerely,



Jacqueline D. Horner  
Secretary/Treasurer



Harold L. Horner  
President

CC: Labor & Commerce Committee Members  
Thyes Shaub, NFIB Ak State Director



2964 Commercial Drive  
Anchorage, AK 99501

(907) 258-2425 Fax: (907) 278-8018

March 13, 2003

Representative Tom Anderson  
State Capital  
Juneau, AK

Fax 907-465-2428

Re: Opposition to House Bill # 155

Mr. Anderson:

As a small contractor who is already scrambling to keep up with costs I find it incredible that the state is considering adding a \$200.00 per contractor fee for the submission of payroll information to DCL. The average construction project probably has four to five subcontractors plus the general contractor. You are asking us to add \$1200.00 to the cost of each public contract awarded plus whatever additional cost we might incur, conservatively \$50.00 per contractor involved, for a total of \$1500.00. A very large contract with many tiers of subcontractors could run ten times that amount. To add this cost and drive up the cost of public contracts at a time when the State is looking everywhere for ways to save money makes no sense. This plus the huge administrative burden you place on the small contractor is not right.

I strongly object to any consideration of HB 155!

Sincerely  
K-C CORPORATION

Byron D. Kohfeld  
President

**Subject: HB 155**

**Date:** Fri, 14 Mar 2003 12:44:47 -0900

**From:** David W Richards <dwrichar@ptiaiaska.net>

**To:** "Rep. Tom Anderson" <Representative\_Tom\_Anderson@legis.state.ak.us>

There are already stringent methods for filing certified payroll. This bill is one more bullet at private business, especially small contractors. Paying a tax in order to have the privilege of providing already detailed, time consuming payroll forms is an insult to people struggling to stay in business. Unless the idea is to make public projects more expensive and keeping them only for the largest construction firms, please don't pass.

David W. Richards  
General Contractor

A M E N D M E N T ^

OFFERED IN THE HOUSE  
TO: CSHB 155(L&C)

BY REPRESENTATIVE ROKEBERG

1 Page 1, line 5, following "contracts;":

2 Insert "relating to the definition of 'public construction' for purposes of paying  
3 prevailing wages;"

4

5 Page 3, lines 17 - 19:

6 Delete all material and insert:

7 "Sec. 36.05.900. Definitions. In this chapter,

8 (1) "contracting agency" means the state or a political subdivision of  
9 the state that has entered into a public construction contact with a contractor;

10 (2) "public construction" does not include alterations or repairs of less  
11 than \$100,000 undertaken by tenants of a building owned or controlled by the state for  
12 government or public use after the initial construction or acquisition of the building by  
13 the state, notwithstanding AS 36.95.010."

# Replacement

AMENDMENT #2

OFFERED IN HOUSE FINANCE COMMITTEE  
BY REPRESENTATIVE CROFT

TO: CS FOR HOUSE BILL NO. 155(L&C)

Page 4, after line 10:

Insert a new section to read

“\*Sec. 6. AS 37.05.146 is amended by adding a new paragraph to read:  
(77) fees received by the Department of Labor and Workforce Development under AS  
36.05.045.”

Renumber accordingly.

AMENDMENT

2

OFFERED IN HOUSE FINANCE COMMITTEE  
BY REPRESENTATIVE CROFT

TO: CS FOR HOUSE BILL NO. 155(L&C)

Page 4, after line 10:

Insert a new section to read

“\*Sec. 6. AS 37.05.046 is amended by adding a new section:  
(77) fees received by the Department of Labor and Workforce Development under AS  
36.05.045;”

Renumber accordingly.

AMENDMENT

3

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY: REPRESENTATIVE CROFT

TO: CSHB 155(FIN)

Page 1, line 2, following "contract":

Insert: "**and related filling fees**"

Page 2, lines 17 through 19, after "\$25,000.":

Delete all text.

Page 3, lines 6-9:

Delete all text.

Insert a new subsection to read:

" (2) shall withhold final payment to any contractor that has failed to comply with (a) or (b) of this section or who is the subject of an investigation under AS 36.05.030."

Page 3, lines 22 through 25:

Delete all text.

Page 3, after line 25:

Insert a new bill section to read:

**\*\*Sec.4.** AS 37.05.146(c) is amended by adding a new paragraph to read:

(77) fees received by the Department of Labor and Workforce

Development under AS 36.05.045."

Renumber accordingly.