



# LAWS OF ALASKA

1972

Source

Chapter No.

SCS CSHB 701

142

## AN ACT

Relating to public construction contracts.

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

\* Section 1. AS 36.05.010 is amended to read:

Sec. 36.05.010. WAGE RATES ON PUBLIC CONSTRUCTION. A contractor or subcontractor who performs work on public construction in the state, as defined by AS 36.95.010(3), shall pay not less than the prevailing rate of wages for work of a similar nature in the region in which the work is done.

\* Sec. 2. AS 36.05.030 is amended to read:

Sec. 36.05.030. AUTHORITY. (a) The Department of Labor has the authority to determine the prevailing wage, and whether or not secs. 10 - 110 of this chapter are being violated. The department may when necessary for the enforcement of secs. 10 - 110

(1) conduct investigations and hold hearings concerning wages;

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

(3) promulgate regulations.

(b) If a person violates secs. 10 - 110 of this chapter the attorney general shall, when requested by the Department of Labor, enforce these provisions.

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

Sec. 36.05.035. NOTIFICATION OF CONTRACT AWARDS.

Upon awarding a public construction contract, the state or a political subdivision of the state shall

(1) immediately notify the commissioner of labor of the amount of the contract, the effective date of the contract, the identity of the contractor and all subcontractors, the site or sites of construction and provide a project description; and

(2) verify that the bonding requirements of ch. 25 of this title have been met and that the requirements of AS 08.18 have been met.

- \* Sec. 4. AS 36.05.040 is repealed and re-enacted to read:

Sec. 36.05.040. FILING SCHEDULE OF EMPLOYEES, WAGES PAID AND OTHER INFORMATION. All contractors or subcontractors who perform work on a public construction contract for the state or for a political subdivision of the state shall, before the Friday of each week, file with the Department of Labor a sworn affidavit for the previous week, setting out in detail the number of men employed, wages paid, job classification of each employee, hours worked each day and week, and other information which the Department of Labor requires.

- \* Sec. 5. AS 36.05.050 is amended to read:

Sec. 36.05.050. HOURS TO CONSTITUTE DAY'S WORK.

(a) Eight hours in any calendar day is a day's work on work done for the state or a political subdivision of the state, subject to (b) of this section.

(b) Work done by contract or subcontract on public construction for the state or a political subdivision of the state shall be done under this section, except that in cases of extraordinary emergency the hours for work may be extended. For this purpose this section is made a part of all contracts, subcontracts or agreements for work done for the state or a political subdivision of the state.

- \* Sec. 6. AS 36.05.060 is amended to read:

Sec. 36.05.060. PENALTY FOR VIOLATION OF THIS CHAPTER. A contractor who violates this chapter, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not less than 10 days nor more than 90 days, or by both. Each day a violation exists constitutes a separate offense.

- \* Sec. 7. AS 36.05.070(a) is amended to read:

(a) The advertised specifications for a public construction contract exceeding \$2,000 to which the state or a political subdivision of the state is a party which requires or involves the employment of mechanics, laborers, or field surveyors shall contain a provision stating the minimum wages to be paid various classes of laborers, mechanics, or field surveyors.

- \* Sec. 8. AS 36.05.070(c)(4) is amended to read:

(4) the state or a political subdivision shall withhold so much of the accrued payments as is necessary to pay to laborers, mechanics, or field surveyors employed by the contractor or subcontractors the difference between

(A) the rates of wages required by the contract to be paid laborers, mechanics, or field surveyors on the work, and

(B) the rates of wages in fact received by laborers, mechanics or field surveyors.

- \* Sec. 9. AS 36.05.090 is amended to read:

Sec. 36.05.090. PAYMENT OF WAGES FROM WITHHELD PAYMENTS AND LISTING CONTRACTORS WHO VIOLATE CONTRACTS.

(a) The state disbursing officer in the case of a state contract and the local fiscal officer in the case of a political subdivision contract shall pay directly to laborers, mechanics or field surveyors from accrued payments withheld under the terms of the contract the wages due laborers, mechanics or field surveyors under sec. 70 of this chapter.

(b) The state disbursing officer or the local fiscal officer shall distribute to all departments of the state government and to all political subdivisions of the state a list giving the names of persons who have disregarded their obligations to employees. No person appearing on this list and no firm, corporation, partnership or association in which the person has an interest may work as a contractor or subcontractor on a public construction contract for the state or a political subdivision of the state until three years after the date of publication of the list. If the accrued payments withheld under the contract are insufficient to reimburse all the laborers, mechanics, or field surveyors with respect to whom there has been a failure to pay the wages required under sec. 70 of this chapter, the laborers, mechanics or field surveyors have the right of action or intervention or both against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in the proceedings it is not a defense that the laborers, mechanics or field surveyors accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

- \* Sec. 10. AS 36.05.100 is amended to read:

Sec. 36.05.100. EFFECT OF SECS. 70 - 110 OF THIS CHAPTER ON OTHER LAWS. Sections 70 - 110 of this chapter do not supersede or impair authority granted by state law to provide for the establishment of specific wage rates.

- \* Sec. 11. AS 36.10.010 is amended to read:

Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of contracts let by the state or a political subdivision of the state for construction, repair, preliminary surveys, engineering studies or maintenance work,

95 per cent residents shall be employed where they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 per cent residents shall be employed where they are available and qualified. In all cases of public works projects, preference shall be given to residents.

\* Sec. 12. AS 36.10.090 is amended to read:

Sec. 36.10.090. PUBLICATION OF LIST OF VIOLATORS. The commissioner of labor shall distribute to all departments and agencies of the state government and to all political subdivisions of the state a list of the names of persons or firms convicted of a violation of this chapter. No person appearing on the list and no firm, corporation, partnership or association in which the person has an interest may work as a contractor or subcontractor on a public construction contract for the state or a political subdivision until after three years from the date of publication of the list.

\* Sec. 13. AS 36.10 is amended by adding new sections to read:

Sec. 36.10.120. REGULATIONS. The Department of Labor may when necessary to enforce this chapter

- (1) conduct investigations and hold hearings relating to employment preference;
- (2) compel the attendance of witnesses and the production of books, papers and documents;
- (3) promulgate regulations.

Sec. 36.10.125. ENFORCEMENT. The attorney general shall, when requested by the Department of Labor, enforce the provisions of this chapter. The attorney general may obtain a court order prohibiting a contractor or subcontractor violating this chapter from continuing to work on existing public construction contracts of the state or a political subdivision of the state. The state or political subdivision of the state may prosecute the work to completion by contract or otherwise, and the contractor or subcontractor and his sureties are liable for excess costs for completing the work.

\* Sec. 14. AS 36.25.010(a) is amended to read:

(a) Before a contract exceeding \$2,000 for the construction, alteration, or repair of a public building or public work of the state or a political subdivision of the state is awarded to a general or specialty contractor, the contractor shall furnish to the state or a political subdivision of the state the following bonds, which become binding upon the award of the contract to that contractor:

- (1) a performance bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond; the amount of the performance bond shall be equivalent to the amount of the payment bond;

(2) a payment bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond for the protection of all persons who supply labor and material in the prosecution of the work provided for in the contract; when the total amount payable by the terms of the contract is not more than \$1,000,000, the payment bond shall be in a sum of one-half the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than \$1,000,000 and not more than \$5,000,000, the payment bond shall be in a sum of 40 per cent of the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than \$5,000,000, the payment bond shall be in the sum of \$2,500,000.

\* Sec. 15. AS 36.25.020(c) is amended to read:

(c) A suit brought under this section shall be brought in the name of the state or the political subdivision of the state for the use of the person suing in the superior court. No suit may be started after the expiration of one year after the date of final settlement of the contract. The state or political subdivision of the state is not liable for costs or expenses of the suit.

\* Sec. 16. AS 36 is amended by adding a new chapter to read:

CHAPTER 95. GENERAL PROVISIONS.

Sec. 36.95.010. DEFINITIONS. In AS 36.05 - AS 36.-25 of this title unless the context requires otherwise

(1) "contractor" means the contractor including the subcontractor;

(2) "laborers, mechanics, or field surveyors" means a person who engages in work which is basically physical or unskilled in nature; or who engages in work, requiring the use of tools or machines, which basically consists of the shaping and working of materials into some type of structure, machine or other object; or who engages in outdoor tasks related to the operation of finding and delineating contour, dimensions, position, topography, as of any part of the earth's surface, by preparation of measured plan or description of any area or other portion of country or of road or line through any area or other portion of country;

(3) "public construction" or "public works" means the on-site erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, of highways or other improvements to real property under contract for the state or a political subdivision of the state;

(4) "qualified" means one who, except for apprentices, is a journeyman mechanic in his particular trade;

(5) "resident" means a person who maintains

his domicile in the state; domicile is the true and permanent home of a person from which he has no present intention of removing and to which he intends to return whenever he is away;

(6) "state or a political subdivision of the state" means any state department, state agency, state university, borough, city, village, school district or other state subdivision;

(7) "wages" includes fringe benefits.

\* Sec. 17. AS 36.05.070(b), 36.05.120, 36.10.050, 36.10.-110 are repealed.