

ENROLLED ACT NO. 41, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to public works and contracts; amending definitions; modifying limitations on subcontracting; granting rulemaking authority; requiring investigations; providing for penalties and modifying penalty amounts; providing conforming amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 16-6-101(a)(i)(intro), (C), by creating new subparagraphs (J) and (K) and (ii), 16-6-102(e), 16-6-104, 16-6-111, 16-6-120 and 16-6-206 are amended to read:

16-6-101. Definitions.

(a) As used in this act:

(i) "Resident" means a person, partnership, limited partnership, registered limited partnership, registered limited liability company or corporation certified as a resident by the department of employment following receipt of an affidavit executed by the president of the company or his designee of compliance with this act and prior to bidding upon the contract or responding to a request for proposal, subject to the following criteria:

(C) A corporation organized under the laws of the state:

(I) With at least fifty percent (50%) of the issued and outstanding shares of stock in the corporation owned by persons who have been residents of the state for one (1) year or more prior to bidding upon the contract or responding to a request for proposal; ~~and~~

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(II) Which ~~maintains~~ has maintained
its principal office and place of business within the
state, for at least one (1) year; and

(III) The president of the corporation
has been a resident of the state for one (1) year or more
immediately prior to bidding upon the contract or
responding to a request for proposal. +

(J) A corporation organized under the laws
of any state which has been in existence for two (2) years
or more:

(I) Has continuously maintained a
principal office and place of business within the state for
at least one (1) year;

(II) Has continuously employed not
less than fifteen (15) full-time Wyoming resident employees
within the state for one (1) year or more prior to bidding
upon the contract or responding to a request for proposal;
and

(III) Has paid worker's compensation
and unemployment taxes in Wyoming for at least one (1) year
and is in good standing with Wyoming worker's compensation
and department of employment at the time the bid or request
for proposal is submitted.

(K) A business entity which qualifies as a
resident pursuant to this paragraph shall not lose that
residency solely due to a conversion under the provisions
of W.S. 17-26-101 or other reorganization as a different
business entity.

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(ii) "Principal office and place of business" means a headquarters or administrative center where:

(A) The high level officers or management direct, control and coordinate the business activities; are conducted or controlled, and

(B) The key business functions are conducted, including, but not limited to project bidding.

16-6-102. Resident contractors; preference limitation with reference to lowest bid or qualified response; decertification; denial of application for residency.

(e) The department ~~may~~shall make investigations as necessary to determine whether any person is eligible to receive or continue to hold a certificate of residency. The department may require or permit any person to file a statement in writing at any time, under oath or otherwise as to all the facts and circumstances concerning the matter to be investigated. For the purpose of any investigation under this section, the director of the department or any person designated by him may administer oaths and affirmations, subpoena witnesses, and compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records, which the director or designated person deems relevant or material to the inquiry. In case of refusal to obey a subpoena issued to any person, any Wyoming district court, upon application by the director, may issue to the person an order requiring him to appear before the director or the officer designated by him, to produce documentary evidence if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt of court. The burden of

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proof regarding the status of the residency is on the person whose residency is in question.

16-6-104. Preference for Wyoming materials required in contracts.

~~Resident Wyoming laborers, workmen and mechanics shall be used upon all work enumerated in W.S. 16-6-102 whenever possible and any contract let shall so provide.~~ Wyoming materials and products of equal quality and desirability shall have preference over materials or products produced outside the state and any contract let shall so provide.

16-6-111. Penalty for violating work hours provisions.

Any person who violates this act is guilty of a misdemeanor punishable by a fine of not more than ~~five hundred dollars (\$500.00), imprisonment in the county jail for not more than six (6) months, or both~~ seven hundred fifty dollars (\$750.00).

16-6-120. Rulemaking; penalties; enforcement.

(a) The department of employment shall promulgate rules and regulations required to enforce this act.

(b) A person, partnership, association, limited partnership, registered limited partnership, registered limited liability company or corporation and any officer or member thereof that intentionally falsifies information under this act shall be:

(i) Fined seven hundred fifty dollars (\$750.00) for each violation for each day during which the violation continues;

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(ii) Barred from bidding on any state contract or submitting any request for proposal on any state project for one (1) year from the date the violation is corrected.

(c) The department of employment is authorized and directed to enforce W.S. 16-6-101 through 16-6-206.

(d) In the event a contractor fails to comply with an order from the department, the director shall refer the matter to the appropriate district or county attorney for enforcement of the department's order.

16-6-206. Failure to employ state laborers; penalty.

(a) A person who willfully or intentionally fails to use Wyoming laborers as required in this act is guilty of a misdemeanor punishable by a fine of not more than ~~five hundred dollars (\$500.00) or by imprisonment for not more than thirty (30) days~~ seven hundred fifty dollars (\$750.00). Each separate case of failure to employ Wyoming laborers on public works projects constitutes a separate offense.

(b) In the event a second offense occurs, the person shall be barred from bidding on any state contract or submitting any request for proposal on any state project for one (1) year from the date the violation is corrected.

Section 2. W.S. 16-6-101(a)(i)(H) is repealed.

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Section 3. This act is effective July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk