

HOUSE BILL NO. HB0111

Public works and contracts-2.

Sponsored by: Joint Minerals, Business and Economic
Development Interim Committee

A BILL

for

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

7

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

9

10 **Section 1.** W.S. 16-6-101(a)(i)(intro), (C), by
11 creating new subparagraphs (J) and (K) and (ii),
12 16-6-102(e), 16-6-104, 16-6-111, 16-6-120 and 16-6-206 are
13 amended to read:

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15 **16-6-101. Definitions.**

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1 (a) As used in this act:

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

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

14

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

20

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

24

1 (III) The president of the corporation
2 has been a resident of the state for one (1) year or more
3 immediately prior to bidding upon the contract or
4 responding to a request for proposal.7

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

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

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

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

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(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.

(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.

1 The department may require or permit any person to file a
2 statement in writing at any time, under oath or otherwise
3 as to all the facts and circumstances concerning the matter
4 to be investigated. For the purpose of any investigation
5 under this section, the director of the department or any
6 person designated by him may administer oaths and
7 affirmations, subpoena witnesses, and compel their
8 attendance, take evidence and require the production of any
9 books, papers, correspondence, memoranda, agreements or
10 other documents or records, which the director or
11 designated person deems relevant or material to the
12 inquiry. In case of refusal to obey a subpoena issued to
13 any person, any Wyoming district court, upon application by
14 the director, may issue to the person an order requiring
15 him to appear before the director or the officer designated
16 by him, to produce documentary evidence if so ordered, or
17 to give evidence touching the matter under investigation or
18 in question. Failure to obey the order of the court may be
19 punished by the court as contempt of court. The burden of
20 proof regarding the status of the residency is on the
21 person whose residency is in question.

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23 **16-6-104. Preference for Wyoming materials required**
24 **in contracts.**

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

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9 **16-6-111. Penalty for violating work hours**
10 **provisions.**

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12 Any person who violates this act is guilty of a misdemeanor
13 punishable by a fine of not more than ~~five hundred dollars~~
14 ~~(\$500.00), imprisonment in the county jail for not more~~
15 ~~than six (6) months, or both~~ seven hundred fifty dollars
16 (\$750.00).

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18 **16-6-120. Rulemaking; penalties; enforcement.**

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

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23 (b) A person, partnership, association, limited
24 partnership, registered limited partnership, registered

1 limited liability company or corporation and any officer or
2 member thereof that intentionally falsifies information
3 under this act shall be:

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

8
9 (ii) Barred from bidding on any state contract
10 or submitting any request for proposal on any state project
11 for one (1) year from the date the violation is corrected.

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

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

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21 **16-6-206. Failure to employ state laborers; penalty.**

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23 (a) A person who willfully or intentionally fails to
24 use Wyoming laborers as required in this act is guilty of a

1 misdemeanor punishable by a fine of not more than ~~five~~
2 ~~hundred dollars (\$500.00) or by imprisonment for not more~~
3 ~~than thirty (30) days~~ seven hundred fifty dollars
4 (\$750.00). Each separate case of failure to employ Wyoming
5 laborers on public works projects constitutes a separate
6 offense.

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

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

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

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(END)