

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.

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

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

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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~~

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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

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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 and:

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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;

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

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1 (ii) "Office and place of business" means a
2 headquarters or administrative center where:

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

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

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11 **16-6-102. Resident contractors; preference limitation**
12 **with reference to lowest bid or qualified response;**
13 **decertification; denial of application for residency.**

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15 (e) The department ~~may~~ shall make investigations as
16 necessary to determine whether any person is eligible to
17 receive or continue to hold a certificate of residency.
18 The department may require or permit any person to file a
19 statement in writing at any time, under oath or otherwise
20 as to all the facts and circumstances concerning the matter
21 to be investigated. For the purpose of any investigation
22 under this section, the director of the department or any
23 person designated by him may administer oaths and
24 affirmations, subpoena witnesses, and compel their

1 attendance, take evidence and require the production of any
2 books, papers, correspondence, memoranda, agreements or
3 other documents or records, which the director or
4 designated person deems relevant or material to the
5 inquiry. In case of refusal to obey a subpoena issued to
6 any person, any Wyoming district court, upon application by
7 the director, may issue to the person an order requiring
8 him to appear before the director or the officer designated
9 by him, to produce documentary evidence if so ordered, or
10 to give evidence touching the matter under investigation or
11 in question. Failure to obey the order of the court may be
12 punished by the court as contempt of court. The burden of
13 proof regarding the status of the residency is on the
14 person whose residency is in question.

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

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

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2 16-6-111. Penalty for violating work hours
3 provisions.

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5 Any person who violates this act is guilty of a misdemeanor
6 punishable by a fine of not more than ~~five hundred dollars~~
7 ~~(\$500.00), imprisonment in the county jail for not more~~
8 ~~than six (6) months, or both~~ seven hundred fifty dollars
9 (\$750.00).

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11 16-6-120. Rulemaking; penalties; enforcement.

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

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

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22 (i) Fined seven hundred fifty dollars (\$750.00)
23 for each violation for each day during which the violation
24 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.

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

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

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10 (END)