

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

SENATE FILE NO. \_\_\_\_\_

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 the contractor preference  
3 percentage; modifying limitations on subcontracting;  
4 granting rulemaking authority; requiring investigations;  
5 providing for penalties and modifying penalty amounts;  
6 providing conforming amendments; and providing for an  
7 effective date.

8

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

10

11 **Section 1.** W.S. 16-6-101(a), 16-6-102(a) and (e),  
12 16-6-104, 16-6-111, 16-6-120 and 16-6-206 are amended to  
13 read:

1

2           **16-6-101. Definitions.**

3

4           (a) As used in this act:

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6                   (i) "Resident" means a person, partnership,  
7 limited partnership, registered limited partnership,  
8 registered limited liability company or corporation  
9 registered with the Wyoming secretary of state and  
10 certified as a resident by the department of employment  
11 prior to bidding upon the contract or responding to a  
12 request for proposal, subject to the following criteria:

13

14                   (A) Any person who is a citizen of the  
15 United States and has been a resident of the state for one  
16 (1) year or more immediately prior to bidding upon the  
17 contract or responding to a request for proposal; or

18

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

21

22                                 (I) With at least fifty percent (50%)  
23 of the issued and outstanding shares of stock in the

1 corporation owned by persons who have been residents of the  
2 state for one (1) year or more prior to bidding upon the  
3 contract or responding to a request for proposal; ~~and~~

4  
5 (II) Which ~~maintains~~ has maintained  
6 its principal office and place of business within the state  
7 for at least one (1) year, and

8  
9 (III) The president of the corporation  
10 has been a resident of the state for one (1) year or more  
11 immediately prior to bidding upon the contract or  
12 responding to a request for proposal.~~†~~

13  
14 (J) A corporation organized under the laws  
15 of any state which has been in existence for two (2) years  
16 or more and is publicly traded and registered under Section  
17 13 or 15(d) of the Securities Exchange Act of 1934 for one  
18 (1) or more classes of its shares, and:

19  
20 (I) Has continuously maintained a  
21 principal office and place of business within the state for  
22 at least one (1) year;

23

1                   (II) Has continuously employed not  
2 less than fifteen (15) full-time Wyoming resident employees  
3 within the state;

4  
5                   (III) Has paid worker's compensation  
6 and unemployment taxes in Wyoming for at least one (1) year  
7 and is in good standing with Wyoming worker's compensation  
8 and department of employment at the time the bid or request  
9 for proposal is submitted.

10  
11                   (ii) "Office and place of business" means a  
12 headquarters or administrative center where the high level  
13 officers direct, control and coordinate the business  
14 activities; ~~are conducted or controlled;~~

15  
16                   (iii) "Resident employee" means any person who:

17  
18                   (A) Is employed by a business bidding on a  
19 state contract or responding to a state request for  
20 proposal;

21  
22                   (B) Is a citizen of the United States; and

23

1                    (C) Has resided in Wyoming for at least one  
2 (1) year immediately prior to the bid on the contract or  
3 the response to the request for proposal.

4  
5                    ~~(iii)~~ (iv) "This act" means W.S. 16-6-101 through  
6 16-6-121.

7  
8                    **16-6-102. Resident contractors; preference limitation**  
9 **with reference to lowest bid or qualified response;**  
10 **decertification; denial of application for residency.**

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12                    (a) If a contract is let by the state, any department  
13 thereof, or any county, city, town, school district,  
14 community college district or other public corporation of  
15 the state for the erection, construction, alteration or  
16 repair of any public building, or other public structure,  
17 or for making any addition thereto, or for any public work  
18 or improvements, the contract shall be let, if  
19 advertisement for bids or request for proposal is not  
20 required, to a resident of the state. If advertisement for  
21 bids is required, the contract shall be let to the  
22 responsible certified resident making the lowest bid if the  
23 certified resident's bid is not more than ~~five percent (5%)~~

1 ten percent (10%) higher than that of the lowest  
2 responsible nonresident bidder.

3  
4 (e) The department ~~may~~shall make investigations as  
5 necessary to determine whether any person is eligible to  
6 receive or continue to hold a certificate of residency.  
7 The department may require or permit any person to file a  
8 statement in writing at any time, under oath or otherwise  
9 as to all the facts and circumstances concerning the matter  
10 to be investigated. For the purpose of any investigation  
11 under this section, the director of the department or any  
12 person designated by him may administer oaths and  
13 affirmations, subpoena witnesses, and compel their  
14 attendance, take evidence and require the production of any  
15 books, papers, correspondence, memoranda, agreements or  
16 other documents or records, which the director or  
17 designated person deems relevant or material to the  
18 inquiry. In case of refusal to obey a subpoena issued to  
19 any person, any Wyoming district court, upon application by  
20 the director, may issue to the person an order requiring  
21 him to appear before the director or the officer designated  
22 by him, to produce documentary evidence if so ordered, or  
23 to give evidence touching the matter under investigation or

1 in question. Failure to obey the order of the court may be  
2 punished by the court as contempt of court. The burden of  
3 proof regarding the status of the residency is on the  
4 person whose residency is in question.

5  
6 **16-6-104. Preference for Wyoming materials required**  
7 **in contracts.**

8  
9 ~~Resident Wyoming laborers, workmen and mechanics shall be~~  
10 ~~used upon all work enumerated in W.S. 16-6-102 whenever~~  
11 ~~possible and any contract let shall so provide.~~ Wyoming  
12 materials and products of equal quality and desirability  
13 shall have preference over materials or products produced  
14 outside the state and any contract let shall so provide.

15  
16 **16-6-111. Penalty for violating work hours**  
17 **provisions.**

18  
19 Any person who violates this act is guilty of a misdemeanor  
20 punishable by a fine of not more than ~~five hundred dollars~~  
21 ~~(\$500.00)~~ seven hundred fifty dollars (\$750.00),  
22 imprisonment in the county jail for not more than six (6)  
23 months, or both.

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

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

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

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(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.

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

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

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

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8       (a) A person who willfully or intentionally fails to  
9 use Wyoming laborers as required in this act is guilty of a  
10 misdemeanor punishable by a fine of not more than ~~five~~  
11 ~~hundred dollars~~ ~~(\$500.00)~~ seven hundred fifty dollars  
12 (\$750.00) or by imprisonment for not more than ~~thirty~~ ~~(30)~~  
13 ~~days~~ six (6) months. Each separate case of failure to  
14 employ Wyoming laborers on public works projects  
15 constitutes a separate offense.

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

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

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

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(END)