

HOUSE BILL NO. HB0102

Wyoming Preference Act of 1971-amendments.

Sponsored by: Representative(s) Barlow, Bear, Duncan and
Larsen and Senator(s) Driskill and Kost

A BILL

for

1 AN ACT relating to the Wyoming Preference Act of 1971;
2 amending requirements for Wyoming laborers on public works;
3 revising certification requirements for use of nonresident
4 laborers; making conforming amendments; specifying
5 applicability; and providing for an effective date.

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

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9 **Section 1.** W.S. 16-6-202(a)(ii), by creating a new
10 paragraph (v) and by renumbering (v) as (vi), 16-6-203,
11 16-6-205(b) and 16-6-206(a) and (b) are amended to read:

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13 **16-6-202. Definitions.**

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15 (a) As used in this act:

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2 (ii) "Resident" or "Wyoming laborer" includes
3 any person who is a citizen of the United States, or a
4 person who is authorized to work in the United States by an
5 agency of the federal government, and ~~has resided~~ resides
6 in the state of Wyoming ~~for at least one (1) year~~
7 ~~immediately preceding his~~ at the time of application for
8 employment. Proof of residency in the state of Wyoming
9 shall be established through the following documentary
10 evidence:

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12 (A) A current Wyoming driver's license or
13 identification card issued under title 31 of the Wyoming
14 statutes, or a copy thereof;

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16 (B) A copy of the applicant's official
17 educational records from a Wyoming school or military form
18 DD 214, which indicates Wyoming as the applicant's domicile
19 and home of record at the time of application;

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21 (C) A proof of residency statement on a
22 form provided by the department of workforce services that
23 has been completed, signed and sworn to by the applicant;

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(D) If the applicant is a minor dependent, proof of residency may be satisfied through documentary evidence of the minor dependent's parent or legal guardian as provided in subparagraphs (A) through (C) of this paragraph;

(E) Any other documentary evidence authorized by rule of the department of workforce services.

(v) "Public entity" means as defined in W.S. 16-6-101(a)(viii);

~~(v)~~(vi) "This act" means W.S. 16-6-201 through 16-6-206.

16-6-203. Required resident labor on public works; exception.

(a) Except as otherwise provided in this act, every person who is responsible for a public work shall employ only Wyoming laborers on the public work. Every contract for a public work let by any person shall contain a

1 provision requiring that Wyoming ~~labor~~laborers be used
2 except ~~other~~nonresident laborers may be used when Wyoming
3 laborers are not available for the employment from within
4 the state or are not qualified to perform the work
5 involved. The contract shall contain a provision requiring
6 specific acknowledgement of the requirements of this
7 section. A person required to employ Wyoming laborers may
8 employ ~~other than Wyoming~~nonresident laborers if:

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10 (i) That person ~~informs~~submits written notice
11 to the nearest state workforce center of his ~~employment~~
12 ~~needs at least eleven (11) days before work is commenced;~~
13 ~~and need for laborers.~~ The notice may include the person's
14 need for laborers on multiple public works that the person
15 is responsible for during a nine (9) month period. The
16 notice shall specify if the need for laborers constitutes
17 an emergency that endangers the health, welfare or safety
18 of the public as determined by the public entity associated
19 with the public work. If the person's need for laborers
20 substantially changes during the period, the person may
21 amend the written notice submitted under this paragraph;

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1 (ii) The state workforce center certifies that
2 the person's need for laborers cannot be filled from those
3 Wyoming laborers listed with the Wyoming department of
4 workforce services or that an emergency exists that
5 endangers the health, welfare or safety of the public as
6 determined by the public entity associated with the public
7 work for which Wyoming laborers are not readily available.
8 The certification shall specify the number of nonresident
9 laborers the person may employ on the public works the
10 person is responsible for during the nine (9) month period
11 following certification. Except as provided in this
12 paragraph, the ~~department~~ state workforce center shall
13 respond to a person's request for certification or
14 certification amendment within ten (10) days of the date
15 the ~~information is filed~~ written notice is received. The
16 state workforce center shall respond to a person's
17 emergency request for certification as soon as practicable
18 but not to exceed three (3) days after the date the
19 emergency request is received; and

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21 (iii) Upon hiring, the person shall submit to
22 the state workforce center the number of nonresident
23 laborers employed by the person pursuant to the

1 certification issued under paragraph (ii) of this
2 subsection and the public work or works for which each
3 nonresident laborer is employed during the period of
4 certification. The number of nonresident laborers employed
5 during the period of certification shall not exceed the
6 number specified by the certification or certification
7 amendment.

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9 (b) Upon request by ~~the~~ a state workforce center, the
10 general contractor shall provide the most recent
11 construction schedule for ~~the project~~ a public work.

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13 **16-6-205. Enforcement.**

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15 (b) If requested in writing by the department of
16 workforce services or contracting entity, the general
17 contractor shall provide to the department or contracting
18 entity a payroll report for the period requested for all
19 contractors and subcontractors involved in ~~the project in a~~
20 ~~form that is consistent with federally certified reporting~~
21 ~~requirements and includes~~ a public work. The payroll
22 report shall include residency status and job title for

1 each laborer and the number of days each laborer has been
2 or will be employed on a public work.

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4 **16-6-206. Failure to employ state laborers; penalty.**

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6 (a) A person who willfully or intentionally fails to
7 use Wyoming laborers as required in this act shall be
8 subject to a civil penalty of not more than one thousand
9 dollars (\$1,000.00) per nonresident laborer employed per
10 day, not to exceed a total penalty of ten percent (10%) of
11 the amount of the person's contract. Each separate case of
12 failure to employ Wyoming laborers on ~~public works projects~~
13 a public work constitutes a separate offense.

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15 (b) In the event a second offense occurs within a
16 twelve (12) month period from the date of the first
17 offense, the person shall be barred from bidding on any
18 contract subject to the provisions of this act or
19 submitting any request for proposal on any ~~project-public~~
20 work subject to the provisions of this act for one (1) year
21 from the date the second violation is corrected.

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1 **Section 2.** This act shall apply to the hiring of
2 laborers on public works on and after the effective date of
3 this act. Nothing in this act shall be construed to impair
4 existing agreements entered into by a public entity and a
5 laborer prior to the effective date of this act.

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7 **Section 3.** This act is effective July 1, 2021.

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(END)