

LEGISLATIVE BILL 204

Approved by the Governor February 7, 2008

Introduced by Synowiecki, 7; Lathrop, 12; Nantkes, 46

FOR AN ACT relating to labor; to amend sections 48-2102, 48-2103, 48-2104, 48-2107, 48-2114, and 48-2115, Reissue Revised Statutes of Nebraska; to change provisions relating to the Contractor Registration Act; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 48-2102, Reissue Revised Statutes of Nebraska, is amended to read:

48-2102 It is the intent of the Legislature that all contractors doing business in ~~counties with a population of over one hundred thousand inhabitants~~ Nebraska be registered with the department. It is not the intent of the Legislature to endorse the quality or performance of services provided by any individual contractor.

Sec. 2. Section 48-2103, Reissue Revised Statutes of Nebraska, is amended to read:

48-2103 For purposes of the Contractor Registration Act:

(1) Commissioner ~~shall mean~~ means the Commissioner of Labor;

(2) Construction ~~shall mean~~ means work on real property and annexations, including new work, additions, alterations, reconstruction, installations, and repairs performed at one or more different sites which may be dispersed geographically, but does not include the construction of water wells or installation of septic systems;

(3) Contractor ~~shall mean~~ means a person who engages in the business of construction and ~~shall include~~ includes a subcontractor, a general contractor, and any other person arranging for the performance of construction. A person who earns less than ~~one~~ five thousand dollars annually or who performs work or has work performed on ~~the person's~~ his or her own property ~~is not shall not be a contractor; for purposes of the act;~~

(4) Department ~~shall mean~~ means the Department of Labor; and

(5) Working days ~~shall mean~~ means Mondays through Fridays but ~~shall does not~~ include Saturdays, Sundays, or federal or state holidays. In computing fifteen working days, the day of receipt of any notice ~~shall not be~~ is not included and the last day of the fifteen working days ~~shall be~~ is included.

Sec. 3. Section 48-2104, Reissue Revised Statutes of Nebraska, is amended to read:

48-2104 Before performing any construction work in ~~any county with a population of over one hundred thousand inhabitants,~~ Nebraska, a contractor shall be registered with the department. If a contractor does business under more than one name, the contractor shall obtain a registration number for each name under which the contractor is doing business.

Sec. 4. Section 48-2107, Reissue Revised Statutes of Nebraska, is amended to read:

48-2107 (1) Each application or renewal under section 48-2105 shall be accompanied by a fee of ~~twenty-five~~ forty dollars. The fee shall not be required when an amendment to an application is submitted.

(2) A contractor shall not be required to pay the fee if the application contains an affidavit which shows the contractor is self-employed and does not pay more than ~~one~~ three thousand dollars annually to employ other persons in the business. The affidavit shall contain (a) a statement that the contractor is self-employed, and (b) a list of all employees employed on the date of the application and in the past twelve-month period prior to such date and the dates of employment for each employee. the amount paid to each employee, and (c) a list of all ~~current~~ employees. At any time that a contractor no longer qualifies for exemption from the fee, the fee shall be paid to the department.

Sec. 5. Section 48-2114, Reissue Revised Statutes of Nebraska, is amended to read:

48-2114 (1) The commissioner shall issue a citation to a contractor when an investigation reveals that the contractor has violated:

(a) The requirement that the contractor be registered; or

(b) The requirement that the contractor's registration information be substantially complete and accurate.

(2) ~~If~~ When a citation is issued, the commissioner shall notify the contractor of the proposed administrative penalty, if any, by certified mail or any other manner of delivery by which the United States Postal Service

can verify delivery. The administrative penalty shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars in the case of a second or subsequent violation.

(3) The contractor shall have fifteen working days from the date of the citation or penalty to contest such citation or penalty. Notice of contest shall be sent to the commissioner who shall provide a hearing pursuant to the Administrative Procedure Act.

(4) If the contractor has never been registered under the Contractor Registration Act, the contractor shall have sixty working days from the date of the citation to register. No administrative penalty shall be assessed if the contractor registers within such sixty-day period. This subsection shall remain in effect until March 1, 2009.

(5) In any civil action to enforce the Contractor Registration Act, the commissioner and the state may be represented by any qualified attorney who is employed by the commissioner and is designated by him or her for this purpose or at the commissioner's request by the Attorney General.

Sec. 6. Section 48-2115, Reissue Revised Statutes of Nebraska, is amended to read:

48-2115 There is hereby created the Contractor Registration Cash Fund to be administered by the department and used to enforce the Contractor Registration Act. The fund shall consist of such sums as are appropriated to it by the Legislature and any fees collected in the administration of the ~~Contractor Registration Act, act~~. All funds collected shall be remitted to the State Treasurer for credit to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 7. Original sections 48-2102, 48-2103, 48-2104, 48-2107, 48-2114, and 48-2115, Reissue Revised Statutes of Nebraska, are repealed.