

LEGISLATIVE BILL 248

Approved by the Governor April 5, 1994

Introduced by Lynch, 13; Hartnett, 45; Will, 8; Withem, 14

AN ACT relating to labor; to adopt the Contractor Registration Act.
Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Contractor Registration Act.

Sec. 2. It is the intent of the Legislature that all contractors doing business in counties with a population of over one hundred thousand inhabitants 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. 3. For purposes of the Contractor Registration Act:

(1) Commissioner shall mean the Commissioner of Labor;

(2) Construction shall mean 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;

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

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

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

Sec. 4. Before performing any construction work in any county with a population of over one hundred thousand inhabitants, 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. 5. Each contractor shall apply to the department for a registration number on an application form provided by the department. The application shall contain the following information:

(1) The name of the contractor;

(2) The principal place of business of the contractor in Nebraska. If the contractor's principal place of business is outside Nebraska, the application shall state the address of the contractor's principal place of business and the name and address of the contractor's registered agent in Nebraska;

(3) The telephone number of the contractor in the State of Nebraska. If the contractor's principal place of business is outside Nebraska, the application shall state the telephone number of the contractor's principal place of business and the telephone number of the contractor's registered agent in Nebraska;

(4) The type of business entity of the contractor such as corporation, partnership, limited liability company, sole proprietorship, or trust;

(5) The following information about the business entity:

(a) If the contractor is a corporation, the name, address, telephone number, and position of each officer of the corporation; and

(b) If the contractor is other than a corporation, the name, address, and telephone number of each owner;

(6) Proof of (a) a certificate or policy of insurance written by an insurance carrier duly authorized to do business in this state which gives the effective dates of workers' compensation insurance coverage indicating that it is in force, (b) a certificate evidencing approval of self-insurance privileges as provided by the Nebraska Workers' Compensation Court pursuant to section 48-145, or (c) a signed statement indicating that the contractor is not required to carry workers' compensation insurance pursuant to the Nebraska Workers' Compensation Act; and

(7) A description of the business which includes the employer's standard industrial classification code or the principal products and services provided.

Each application shall be renewed annually upon payment of the fee prescribed in section 7 of this act.

Sec. 6. (1) A contractor shall report to the commissioner any change in the information originally reported on or with the application under section 5 of this act within fifteen days of the change, except that the contractor shall notify the commissioner of changes in workers' compensation insurance coverage at least ten days prior to any change in coverage.

(2) After the time specified in subsection (1) of this section, the commissioner, with good cause shown, may determine that amendments may be made to correct an application.

(3) Amendments to applications shall not be permitted when a change occurs in the business classification such as a change from a sole proprietorship to a corporation.

Sec. 7. (1) Each application or renewal under section 5 of this act shall be accompanied by a fee of twenty-five 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 thousand dollars annually to employ other persons in the business. The affidavit shall contain (a) a statement that the contractor is self-employed, (b) a list of all employees employed in the past twelve-month period and 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. 8. Within thirty days of receipt of a completed application, the commissioner shall issue to the contractor a registration number. The registration number shall be a five-digit number followed by a two-digit number indicating the year of issuance.

Sec. 9. Any insurance company carrying a contractor's workers' compensation insurance policy shall notify the department in case of cancellation by either the insurance company or the contractor of such policy. The notice shall contain (1) the name of the insurance carrier, (2) the name of the insured contractor, and (3) the date the cancellation is effective. Contractors who are approved by the Nebraska Workers' Compensation Court for self-insurance shall notify the department at least ten days prior to the termination of such self-insurance.

Sec. 10. (1) The commissioner may make investigations he or she finds necessary or appropriate to determine if there is compliance with the Contractor Registration Act. Investigations shall take place at the times and places as the commissioner directs. For purposes of any investigation under this section, the commissioner may interview persons at the work site, take photographs, and utilize other reasonable investigatory techniques. The conduct of the investigation shall be such as to preclude unreasonable disruption of the operations of the work site. Investigations may be conducted, without prior notice, by correspondence, telephone conversations, or review of materials submitted to the department.

(2) For purposes of any investigation or proceeding under this section, the commissioner or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(3) In case of contumacy by or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the commissioner, may issue to such person an order requiring him or her to appear before the commissioner or the officer designated by the commissioner and produce documentary evidence if so ordered or give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt.

Sec. 11. Written complaints regarding the registration of a contractor made to the commissioner in which the complainant provides his or her name and address shall receive a written response as to the results of the investigation. A complainant's name and other identifying information shall not be released if the complaint was included as a part of another complaint when the complainant's identity would be protected under other statutes or rules and regulations.

Sec. 12. (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 a citation is issued, the commissioner shall notify the

contractor by certified mail of the proposed administrative penalty, if any. 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.

Sec. 13. There is hereby created the Contractor Registration Cash Fund to be administered by the department. 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. 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 sections 72-1237 to 72-1276.

Sec. 14. The commissioner shall issue a notice of revocation of registration to a contractor when an investigation reveals that the contractor no longer meets the conditions of registration set out in section 5 of this act by failure to maintain compliance with the laws of this state relating to workers' compensation insurance coverage. If the commissioner receives a notice of cancellation of workers' compensation insurance coverage, the commissioner shall revoke the registration as of the time of cancellation unless the contractor provides a new certification of insurance prior to the cancellation date.

Sec. 15. The commissioner shall serve notice of revocation on the contractor by mailing such notice by certified mail to the address of the contractor or the contractor's registered agent listed in the application. Upon a showing of compliance with the application requirements set out in section 5 of this act, the commissioner may temporarily reinstate the registration pending a hearing on the revocation. A registration revoked under this section shall not be permanently reinstated. To receive a new registration number, the contractor shall reapply to the commissioner.

Sec. 16. The Contractor Registration Act shall not apply to the state or any political subdivision thereof.