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Member

House Finance Committee

Representative Mike Kelly

House District 7

MEMORANDUM

DATE: March 12, 2009
TO: Representative Kelly
FROM: Derek Miller
RE: Sectional Analysis for HB 185
(26-LS0520\E)

A sectional summary of a bill should not be considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1.

Intent Section. Includes the promotion of open competition on construction contracts for which the state provides financial assistance and maintaining neutrality of the state government towards labor relations of contractors on state and state-assisted construction projects.

Section 2.

AS 36.90.400 Adds language explicitly prohibiting 1) a state agency entering into a construction contract, 2) the construction manager or 3) the controlling documents for the construction contract from requiring or prohibiting a bidder, offeror, contractor or subcontractor to enter into or comply with a labor organization agreement for the construction contract and prohibits discrimination against a bidder, offeror, contractor,

or subcontractor for signing or complying or refusing to sign or comply with a labor organization agreement.

AS 36.90.410 Adds language requiring a state agency that 1) awards a grant, 2) provides financial assistance or 3) enters into an agreement for a construction project that the controlling documents of the grant, financial assistance, the parties to the agreement, and the construction manager not require or prohibit a bidder, offeror, contractor or subcontractor to enter into or comply with a labor organization agreement for the construction contract and prohibits discrimination against a bidder, offeror, contractor, or subcontractor for signing or complying or refusing to sign or comply with a labor organization agreement.

AS 36.90.430 Allows a state agency to take action, consistent with law that the state agency determines to be appropriate if AS 36.90.400 – 36.90.410 are not complied with.

AS 36.90.440 Allows a state agency to exempt construction contracts necessary to avoid imminent threat to the public health or safety.

AS 36.90.450 Exempts the Natural Gas Pipeline licensee under AS 43.90 or if money from the federal government is being used for the construction project and the federal government requires that a labor organization agreement be used.

AS 36.90.480 Allows the Department of Administration to adopt regulations to implement AS 36.90.400 – 36.90.495.

AS 36.90.485 Clarifies that the provisions in AS 36.90.410 may not be construed to prohibit a contractor or subcontractor from voluntarily entering into or adhering to an agreement with a labor organization for a construction contract.

AS 36.90.490 Definitions Section.

AS 36.90.495 Short title for AS 36.90.400 – 36.90.495 may be cited as the “Government Neutrality in Contracting Act.”

Section 3.

Prohibits state agencies from adopting regulations or imposing additional requirements or procedures on grants to municipalities, named recipients, or unincorporated communities unless required by the federal government for participation in federal programs and except as authorized by the regulations adopted by the Department of Administration to implement AS 36.90.480 (Government Neutrality in Contracting Act).

Section 4.

This Act does not apply to agreements entered into before the effective date of this Act.