



# LAWS OF ALASKA

1976

Source

Chapter No.

SCSHB 373(Finance) am S

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## AN ACT

Relating to economic impacted areas and extraordinary state services; and providing for an effective date.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 44.33 is amended by adding new sections to read:

Sec. 44.33.285. ACTION BY GOVERNOR. The governor may, upon recommendation of the commissioner of commerce and economic development, designate by proclamation an area as an area impacted by an economic disaster. When an area is so designated, assistance grants shall be made by the Department of Commerce and Economic Development as provided in AS 37.11.100 and the governor may recommend in his budget submission that capital projects planned for the area be accelerated and that new projects be funded for the area. The proclamation may provide that waivers of capital projects requirements, as authorized in sec. 300 of this chapter, become effective only to the extent set out in the proclamation.

Sec. 44.33.290. EMPLOYMENT PREFERENCE. (a) In the performance of contracts awarded by the state in an area impacted by an economic disaster, residents of the area shall be employed where they are available and qualified so that the economic effects of alleviating the disaster will be maximized. If resident labor is not available, the contractor shall inform the Department of Labor of the number of additional workers needed, the positions to be filled, and the efforts made at recruitment in the area. If the Department of Labor is satisfied that a good faith effort has been made by the contractor to hire residents of the area, it may issue a certificate allowing other hire for designated positions. A clause requiring these provisions shall be part of each state contract awarded.

(b) Wages paid for employment under this section shall be in conformance with the minimum rates of pay schedule published by the Department of Labor in accordance with AS 36.05.030.

Sec. 44.33.295. CONTRACTORS' PREFERENCE. If the department determines that there are contractors in an area designated as an area impacted by an economic disaster and who are qualified to perform a contract, preference to the extent feasible shall be given to those contractors under regulations adopted by the department.

Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the governor has by proclamation declared an area impacted by an economic disaster, the following provisions regarding public contracts may be waived to the extent specified in the proclamation:

(1) the requirement of a contractor's bond as prescribed in AS 36.25.010 may be waived if the contract amount does not exceed \$100,000;

(2) the public bid requirements as contained in AS 19.10.170, 19.10.190, 19.30.191(b), and AS 35.15.010 - 35.15.030 may be waived if the contract is to be performed by a contractor whose principal office is in the designated area and the contract amount does not exceed \$50,000;

(3) the general policy to require all construction to be under bid contract as contained in AS 35.15.010 may be waived if the contract is to be performed by the state, another governmental entity, or a nonprofit entity.

Sec. 44.33.305. REGULATIONS. The department, after consultation with the Department of Labor, may adopt regulations to implement secs. 250 - 310 of this chapter.

Sec. 44.33.310. DEFINITIONS. In this chapter,

(1) "base period" means any 10 years after 1950, not necessarily continuous, and if the economic disaster is caused by a fisheries failure the period shall consist of years during which a fishery produced at economically representative levels as determined by the Department of Fish and Game;

(2) "department" means the Department of Commerce and Economic Development;

(3) "economic disaster" means that the annual income to workers in the designated area dropped below the average annual income for the base period for workers in the designated area and the drop in income is of such magnitude that the average family income of all residents of the designated area as determined by the department is below the Federal Social Security Administration Poverty Guideline, adjusted by the department to reflect subsistence economic patterns and appropriate cost-of-living differentials; the availability of alternate employment shall be considered in determining whether an economic disaster has occurred under this paragraph.

- \* Sec. 2. AS 19.10.170 is amended to read:

Sec. 19.10.170. CONSTRUCTION BY DEPARTMENT. Except as provided in AS 44.33.300, it shall be the general policy of the department to require the construction of all highways under bid contract. However, when the estimated cost of a construction project is less than \$20,000 or when it appears to be in the best interests of the state, the department may perform the work notwithstanding any other provisions of law.

- \* Sec. 3. AS 19.10.190 is amended to read:

Sec. 19.10.190. ADVERTISEMENT, BIDS, CONTRACTS, AND INFORMAL BIDS. Except as provided in AS 44.33.300, when the estimated cost of any construction exceeds \$20,000, the department shall, except as provided in sec. 170 of this chapter, proceed to advertise, request bids, and award the contract in the manner provided in secs. 200 and 210 of this chapter. Whenever any proposed construction contract is for a sum less than \$20,000, it shall be discretionary with the department whether the contract shall be advertised and awarded in accordance with secs. 200 and 210 of this chapter. In all events the department shall request informal bids from as many contractors as can be requested conveniently.

- \* Sec. 4. AS 19.30.191(b) is amended to read:

(b) Except as provided in AS 44.33.300, construction of each project subject to the provisions of this section shall be performed by contract awarded by competitive bidding, unless the commissioner finds that, under the circumstances relating to the project, some other method is in the public interest. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsible bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation may be imposed upon a bidder as a condition precedent to the award of a contract to a bidder unless the requirement or obligation is otherwise lawful and specifically set out in the advertised specifications.

- \* Sec. 5. AS 35.15.010 is amended to read:

Sec. 35.15.010. CONSTRUCTION BY DEPARTMENT. Except as provided in AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than \$20,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law.

- \* Sec. 6. AS 35.15.030 is amended to read:

Sec. 35.15.030. ADVERTISEMENT, BIDS, CONTRACTS, AND INFORMAL BIDS. When the estimated cost of any construction exceeds \$20,000, the department shall, except as provided in sec. 10 of this chapter and in AS 44.33.300, proceed to advertise, request bids, and award the contract in the manner provided in secs. 40 and 50 of this chapter. When

any proposed construction contract is for a sum less than \$20,000, it is discretionary with the department whether the contract is advertised and awarded in accordance with secs. 40 and 50 of this chapter. In all events the department shall request informal bids from as many contractors as can be requested conveniently.

\* Sec. 7. AS 36.10.010 is amended to read:

Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of contracts let by the state or a political subdivision of the state for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work or any other retention of services necessary to complete any given project, 95 per cent residents shall be employed where they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 per cent residents shall be employed where they are available and qualified. In all cases of public works projects, preference shall be given to residents. In an area which has been designated as an area impacted by an economic disaster, residents of that area shall be given employment preference as provided in AS 44.33.290, followed by other residents of the state.

\* Sec. 8. AS 36.25.010(a) is amended to read:

(a) Except as provided in AS 44.33.300, before a contract exceeding \$2,000 for the construction, alteration, or repair of a public building or public work of the state or a political subdivision of the state is awarded to a general or specialty contractor, the contractor shall furnish to the state or a political subdivision of the state the following bonds, which become binding upon the award of the contract to that contractor:

(1) a performance bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond; the amount of the performance bond shall be equivalent to the amount of the payment bond;

(2) a payment bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond for the protection of all persons who supply labor and material in the prosecution of the work provided for in the contract; when the total amount payable by the terms of the contract is not more than \$1,000,000, the payment bond shall be in a sum of one-half the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than \$1,000,000 and not more than \$5,000,000, the payment bond shall be in a sum of 40 per cent of the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than \$5,000,000, the payment bond shall be in the sum of \$2,500,000.

\* Sec. 9. AS 37.11 is amended by adding a new section to read:

ARTICLE 2. ALASKA ECONOMIC DISASTER IMPACT FUND.

## Sec. 37.11.100. ALASKA ECONOMIC DISASTER IMPACT FUND.

(a) There is established a separate fund known as the Alaska economic disaster impact fund which shall be administered by the Department of Commerce and Economic Development. Funds designated in this section and apportioned by statute for deposit in the Alaska economic disaster impact fund are for grants or loans to assist economically impacted communities within areas designated by a proclamation under AS 44.33.285. The Department of Community and Regional Affairs, in consultation with the Department of Fish and Game, shall determine which communities are economically impacted fishing communities.

(b) If the economic disaster is due to a fisheries failure based on consideration of need, the legislature may appropriate to the Alaska economic disaster impact fund from the renewable resource fund (ch. 130, SLA 1974). If there is an insufficient balance in the renewable resource fund to meet emergency needs that may be determined under the provisions of AS 44.33.285, the legislature may appropriate from the general fund. The Alaska economic disaster impact fund balance may not exceed \$5,000,000. The commissioner of revenue, after determining that there is in the Alaska economic disaster impact fund a surplus above an amount sufficient to meet anticipated demands, may invest the surplus as provided in ch. 10 of this title. Interest derived from investment of these surplus funds shall be deposited to the renewable resource fund. If the economic disaster is due to other than a fisheries failure, the legislature may appropriate from the general fund to the Alaska economic disaster fund to meet emergency needs.

(c) Unappropriated or otherwise unencumbered balances remaining in the Alaska economic disaster impact fund at the close of each fiscal year shall not lapse as provided in AS 37.25.010 but shall be available in perpetuity for fund purposes.

(d) Within the first 10 days of each legislative session the commissioner of commerce and economic development shall submit to the legislature a detailed report of all expenditures from the fund and all actions taken under AS 44.33.285.

\* Sec. 10. Chapter 6, sec. 5, SSSLA 1974 is amended to read:

Sec. 5. The unexpended and unobligated balances of appropriations made by this Act lapse into the general fund on June 30, 1976.

\* Sec. 11. This Act takes effect immediately in accordance with AS 01.10.070(c).