

**HOUSE CS FOR CS FOR SENATE BILL NO. 141(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/7/99

Referred: Rules

Sponsor(s): SENATOR LEMAN BY REQUEST

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to construction contracts and subcontractors; relating to design-  
2 build construction contracts; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 36.30.115(b) is amended to read:

5 (b) A construction contractor or the [THE] apparent low bidder for a  
6 construction contract may replace a listed subcontractor if the subcontractor

7 (1) fails to comply with AS 08.18;

8 (2) files for bankruptcy or becomes insolvent;

9 (3) fails to execute a contract with the construction contractor or

10 bidder involving performance of the work for which the subcontractor was listed and  
11 the construction contractor or bidder acted in good faith;

12 (4) fails to obtain bonding;

13 (5) fails to obtain insurance acceptable to the state;

14 (6) fails to perform the contract with the construction contractor or

1 bidder involving work for which the subcontractor was listed;

2 (7) must be substituted in order for the [PRIME] contractor to satisfy  
3 required state and federal affirmative action requirements;

4 (8) refuses to agree or abide with the [BIDDER'S] labor agreement **of**  
5 **the construction contractor or bidder**; or

6 (9) is determined by the procurement officer not to be a responsible  
7 subcontractor.

8 \* **Sec. 2.** AS 36.30.115 is amended by adding new subsections to read:

9 (f) In addition to the circumstances described in (b) of this section, a  
10 construction contractor may request permission from the procurement officer to add  
11 or replace a listed subcontractor. The request must be in writing, specifically detailing  
12 the basis for the request, and include appropriate supporting documentation. The  
13 procurement officer shall approve the request if the procurement officer determines in  
14 writing that the requested addition or replacement is in the best interest of the state.

15 (g) The requirements of this section do not apply to a design-build construction  
16 contract.

17 (h) In this section, "construction contractor" means a person who enters into  
18 a construction contract with an agency.

19 \* **Sec. 3.** AS 36.30.210(b) is amended to read:

20 (b) An offeror for a construction contract shall submit evidence of the offeror's  
21 registration under AS 08.18. A request for sealed proposals for a construction  
22 contract, **except a design-build construction contract**, must require the offeror, no  
23 later than five working days after the proposal that is the most advantageous to the  
24 state is identified, to list subcontractors the offeror proposes to use in the performance  
25 of the construction contract. The list must include the information required under  
26 AS 36.30.115(a). The provisions of **AS 36.30.115(b) - (g) that apply to a**  
27 **construction contractor or an apparent low bidder** [AS 36.30.115(b) - (e)] apply  
28 to **offerors submitting** competitive sealed proposals for construction contracts, **except**  
29 **design-build construction contracts**.

30 \* **Sec. 4.** AS 36.30.210 is amended by adding a new subsection to read:

31 (f) In this section, "construction contractor" has the meaning given in

1 AS 36.30.115.

2 \* **Sec. 5.** AS 36.30.990 is amended by adding a new paragraph to read:

3 (23) "design-build construction contract" means a contract to provide  
4 construction in accordance with a design provided by the contractor.

5 \* **Sec. 6.** Section 4(c), ch. 15, SLA 1998, is amended by adding a new paragraph to read:

6 (4) the agreement to lease must provide a fixed rate for each bed day,  
7 adjusted annually during the term of the lease according to an appropriate index; the  
8 fixed rate for the first year of the lease must include all capital and operating costs and  
9 may not exceed \$70 for each bed day.

10 \* **Sec. 7.** Section 4, ch. 15, SLA 1998, is amended by adding a new subsection to read:

11 (d) The adoption by a municipality, when exercising its powers under  
12 AS 29.35.020(a), of an ordinance for procurement of a facility or operation on a  
13 design-build construction contract basis satisfies the procurement requirements under  
14 (b) of this section.

15 \* **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).