

HOUSE FINANCE COMMITTEE
March 11, 2010
9:07 a.m.

9:07:30 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:07 a.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Bill Thomas Jr., Vice-Chair
Representative Allan Austerman
Representative Mike Doogan
Representative Anna Fairclough
Representative Neal Foster
Representative Les Gara
Representative Reggie Joule
Representative Mike Kelly
Representative Woodie Salmon

MEMBERS ABSENT

None

ALSO PRESENT

Representative Tammie Wilson; Pat Davidson, Legislative Auditor, Legislative Audit Division, Legislative Affairs Agency; Jennifer Strickler, Director, Division of Occupational Licensing, Department of Commerce, Community and Economic Development; Vern Jones, Chief Procurement Officer, Department of Administration; Adam Blomfield, Owner, The Blomfield Company Crystal Koeneman, Staff, Representative Fairclough

PRESENT VIA TELECONFERENCE

Butch Olmstead, Vice Chairman, Alaska Appraisal Board

SUMMARY

HB 342 EXTEND BOARD OF REAL ESTATE APPRAISERS

HB 342 was REPORTED out of Committee with a "do pass" recommendation and with a previously published fiscal note: FN1

HB 225 STATE PROCUREMENT CODE

CSHB 225 (FIN) was HEARD and HELD in Committee for further consideration.

HJR 45 OPPOSE FEDERAL CAP AND TRADE LEGISLATION

HJR 45 was SCHEDULED but not HEARD.

[9:07:36 AM](#)

Co-Chair Stoltze brought the meeting to order and listed the bills to be heard.

[9:08:39 AM](#)

#hb342

HOUSE BILL NO. 342

"An Act extending the termination date of the Board of Certified Real Estate Appraisers; and providing for an effective date."

REPRESENTATIVE TAMMIE WILSON presented an overview of her bill to extend the Board of Certified Real Estate Appraisers to June 30, 2014. She reported that the Board of Certified Real Estate Appraisers (BCREA) is comprised of a five member board to establish: (1) examination specifications for certification as a real estate appraiser; (2) rules of professional conduct to establish and maintain a high standard of integrity in the real estate appraisal profession; and (3) regulations necessary to carry out the purposes of the statutes. The conclusion of the Legislative Audit is a recommendation to extend the BCREA's termination date by four years rather than eight due to the deficiencies identified by the appraisal subcommittee. The deficiencies have or are being addressed by the board. The board is funded by the RSS fund through receipts from licensing fees. She stressed that no new funds will be required to implement the bill.

[9:10:32 AM](#)

PAT DAVIDSON, LEGISLATIVE AUDITOR, LEGISLATIVE AUDIT DIVISION, LEGISLATIVE AFFAIRS AGENCY, recommended a four year extension for the board instead of eight years. There was concern the board failed to act in following up on issues identified during their federal review. She added that there were also administrative deficiencies in financial accounting and reporting by the board. She noted that there have been extended vacancies on the board this year as the governor's office failed to make timely appointments. There are recommendations to the governor's office to address more timely appointments of board members and a recommendation to the department to improve its administrative support to the board. Ms. Davidson stressed that these boards are self supporting and maintaining a fee level appropriate for their expenses. In FY2009, they substantially dropped their fees.

[9:12:32 AM](#)

Representative Doogan inquired about the fiscal note. Ms. Davidson replied that she could not speak to the fiscal note.

Representative Austerman asked for the reason to extend the board for four years rather than eight. Ms. Davidson replied that it was primarily due to the lack of board responsiveness and follow up to the federal review. The board is required to certify real estate appraisers, and then state residents could participate in federal loan programs. There is a federal agency that does periodic reviews of the activities of the board and that agency found that the board and department were not being sufficiently responsive to address the identified shortcomings.

Representative Austerman asked if the board will be reviewed again within the four years. Ms. Davidson responded that there is currently a federal review in draft form that should be finalized soon, but legislative audit will not be going back to look at the board for the next four years. Representative Austerman maintained it does not make sense to wait four years if they are having a problem, but should be reviewed again in one year. Ms. Davidson reminded the committee that at any point in time the legislature can ask Legislative Audit to conduct an audit. There can also be a request to see if the problems have

been resolved. Representative Austerman asked if there would be an automatic follow up due to the problems. Ms. Davidson indicated that if the legislature extends the board for four years, then Legislative Audit will follow up in four years.

[9:16:04 AM](#)

Representative Fairclough referred to page 11 of the report under "Findings and Recommendations" where the second bullet point states that the board does not have enough authority to carry out its functions under TITLE XI. Representative Fairclough asked Ms. Davidson to speak to this finding (Alaska State Legislature, Legislative Budget and Audit Committee, Division of Legislative Audit, December 7, 2009, Pat Davidson, Legislative Auditor, copy on file).

Ms. Davidson responded that the bullet points state that if the federal agency came in and found that the board did not meet these criteria, but it does not specifically indicate that they do not have enough authority. These are set out as criteria, not as findings.

Representative Fairclough inquired if the state needs to act to provide additional authority to the board so they can carry out their mission under TITLE XI. Ms. Davison reported that they did a review of the federal report before it became final. The recommendations in the audit are minor housekeeping and statutory cleanups, but nothing substantial.

[9:18:23 AM](#)

Representative Austerman asked if the statement that it was only minor problems was why the department was recommending the four years. Ms. Davidson responded that there were operational and statutory issues. The operational issues had to do with how well the applications were being reviewed and the follow up when the board really needs to take immediate action. In the draft report, federal level changes were made in some laws, statutes and regulations changes sometime get behind. They do not have the final report yet, but when reviewing the draft the problems appeared to be minor clean up that needed to be addressed.

[9:20:06 AM](#)

JENNIFER STRICKLER, OPERATIONS MANAGER, DIVISION OF OCCUPATIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, answered some of the questions. The division went through difficulties with unqualified staff, but these individuals have moved on and new people hired. The issues in the audit regarding the board as not being in compliance with the appraisal subcommittee findings were related to three licensed individuals. These individuals lacked some submissions of work logs in their licensing files. The department took action to contact these individuals to have them submit their work logs; one complied, two did not. The department fell short on not being more assertive with the board to take disciplinary action against the two licensees who continue to hold their license. It has been brought to the attention of the board and the board referred those two individuals over to the investigative unit to start disciplinary proceedings.////

[9:22:37 AM](#)

Representative Doogan inquired again about the fiscal note.

Ms. Strickler related that personal services are made up of licensing staff, management staff, and investigative staff. Licensing staff operates on a positive timekeeping basis because of the receipt supported services funding so the only time attributed to this board is recorded and charged. She continued that travel, consisting of transportation and per diem is for the board and staff to meet at least two times a year. The contractual costs are high because in 2008 there were litigations and hearing costs which tend to drive expenses up. Representative Doogan asked what the contractual are being paid for. Ms. Strickler noted that the division has an investigation unit comprised of twenty investigators. They are assigned to this program so their salary is paid by the department as they are state employees.

Representative Doogan asked if this was charged back from other agencies. Ms. Strickler replied yes.

[9:25:04 AM](#)

Co-Chair Stoltze asked about a consistent failure to fill the board seats. He inquired if this problem had been fixed over the past several months. Ms. Strickler stated there

have been a lot of appointments to various boards, but she was unable to say if it has been a problem.

Co-Chair Stoltze questioned if there was any improvement. Ms. Strickler contended that she could not say.

[9:26:27 AM](#)

BUTCH OLMSTEAD, VICE CHAIRMAN, ALASKA APPRAISAL BOARD (via teleconference), talked about the two recent vacancies on the board and believed there were two new appointees ready to fill those vacancies. In the past it was noticed that open seats on the board were vacant for a long period, therefore in that regard there has been an improvement. He referred to some of the housekeeping matters and problems from the audit and acknowledged that they have been addressed.

Co-Chair Stoltze closed public testimony.

[9:28:26 AM](#)

Co-Chair Hawker commented that he has noticed consistently that every single sunset audit has involved criticisms of the support services provided to the department or agency. He has asked for all the past reports on audit problems with plans to insist on a more consistent follow up by them.

Co-Chair Stoltze responded that he preferred shorter sunsets when there are concerns.

Vice-Chair Thomas MOVED to report HB 342 out of Committee with individual recommendations and the accompanying fiscal note. There being No Objection, it was so ordered.

HB 342 was REPORTED out of Committee with "do pass" recommendation and with a previously published fiscal note: FN1

[9:31:05 AM](#)

#hb225

HOUSE BILL NO. 225

"An Act relating to the State Procurement Code; relating to the procurement of supplies, services,

professional services, construction services, state fisheries products, state agricultural products, state timber, and state lumber; relating to procurement preferences; relating to procurement by the office of the ombudsman, the Alaska Industrial Development and Export Authority, the Alaska Energy Authority, and other state agencies and public corporations; and providing for an effective date."

Representative Fairclough welcomed her staff. She noted it would change from inside the.

Co-Chair Hawker MOVED to ADOPT CS for House Bill 225(FIN), 26\LS079\S, Bannister, 2/16/10.

Co-Chair Stoltze OBJECTED for the purpose of discussion.

Representative Fairclough asked for a sectional analysis.

[9:32:28 AM](#)

VERN JONES, CHIEF PROCUREMENT OFFICER, DEPARTMENT OF ADMINISTRATION, reviewed the forty six sections in the Sectional Analysis (copy on file).

CSHB 225 (FIN)
Sectional Analysis

*** Section 1:** Amends AS 24.55.275

Updates a citation to reflect the renumbering of a preference.

*** Section 2:** Amends AS 36.15.050(a)

Amends the local agricultural preference to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other procurement preferences.

*** Section 3:** Amends AS 36.15.050(b)

Amends the local fisheries preference to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this

preference consistent with other procurement preferences.

- * **Section 4:** Amends AS 36.15.050 by adding a new subsection (h)

Amends the local agricultural and fisheries preferences to disallow a bidder from being granted both a local agricultural/fisheries preference and an Alaska product preference under another statute.

- * **Section 5:** Amends AS 36.30.015(e)

Updates a citation to reflect the renumbering of a preference.

- * **Section 6:** Amends AS 36.30.015(f)

Adds the Alaska Industrial Development Authority and the Alaska Energy Authority to a list of agencies exempt from the procurement code and updates a citation to reflect the renumbering of a preference.

- * **Section 7:** Amends AS 36.30.015(h)

Updates a citation to reflect the renumbering of a preference.

- * **Section 8:** Amends AS 36.30.020

Updates a citation to reflect the renumbering of a preference.

- * **Section 9:** Amends AS 36.30.030

Updates a citation to reflect the renumbering of a preference.

- * **Section 10:** Amends AS 36.30.080(f)

Increases the threshold limit for small procurements of leased space from 3,000 square feet to 7,000 square feet, consistent with section 24.

*** Section 11:** Amends AS 36.30.110(b)

Clarifies Alaska business license requirements for competitive sealed bids and qualification for the Alaska bidder preference. Change would require bidders to show proof of their Alaska Business License prior to award, but would require the license at the time of bid submission in order to qualify for the Alaska bidder preference.

Mr. Jones interjected that this change was suggested and recommended by Legislative Audit. It was to address a problem where bidders were disqualified for technical reasons on high dollar procurements because they failed to get a business license in time. Also some bidders were disqualified if they changed their business name or merged their business and failed to change this on their business license.

*** Section 12:** Amends AS 36.30.130(a)

Eliminates reference to a procurement officer's use of vendor lists, reflecting the repeal of the statute establishing the vendor lists.

Mr. Jones noted that the state has taken its business online for the past ten years, but the statute makes the state keep vendor lists even though they are seldom used. There are those on the vendor list with a false expectation that they will be notified when bidding occurs. All notification now is done online.

*** Section 13:** Amends AS 36.30.170

Updates a citation to reflect the renumbering of the Alaska bidder preference.

*** Section 14:** Amends AS 36.30 by adding a new section 36.30.195

Adds a new section to the procurement code that allows for multi-step revised sealed bidding, a new process that will allow a procurement officer to use successive steps of sealed bidding to obtain the best and final bid price for purposes

of award. Excludes construction contracts from this provision.

*** Section 15:** Amends AS 36.30.200(b)

Minor modification to language regarding construction procurements.

*** Section 16:** Amends AS 36.30.210(b)

Clarifies construction contractor registration requirements, now explicitly requiring registration before award of a contract.

[9:39:10 AM](#)

*** Section 17:** Amends AS 36.30.210(e)

Clarifies Alaska business license requirements for competitive sealed proposals and qualification for the Alaska bidder preference using language consistent with that used in Section 11.

*** Section 18:** Amends AS 36.30 by adding a new section 36.30.245

Adds a new section to the procurement code that allows for multi-step negotiations. This has essentially the same effect as Section 14, but it applies to the competitive sealed proposal process. A procurement officer will be able to gain the best and final proposal for purposes of award through successive steps of negotiation and proposal submission. Excludes construction contracts from this provision

*** Section 19:** Amends AS 36.30.250(a)

Updates a citation to reflect the renumbering of a preference.

*** Section 20:** Amends AS 36.30 by adding a new section 36.30.255

Directs procurement officers to consider only the preferences listed in statute when applying

preferences under a competitive sealed proposal process, and instructs them to apply the preferences only to the price portion of a proposal. This effectively eliminates the Alaska offeror's preference contained in regulation at 2 AAC 12.260(e), and which has no basis in statute.

- * **Section 21:** Amends AS 36.30 by adding a new section 36.30.290

Adds a new section allowing an agency to accept electronic bids and proposals.

- * **Section 22:** Amends AS 36.30.310

Revises the statute relating to emergency procurements, clarifying that the commissioner of administration shall adopt regulations defining emergency conditions and who shall be responsible for written determinations of the basis for an emergency procurement.

- * **Section 23:** Amends AS 36.30.320(a)

Increases the threshold under which a state agency may use informal procurement process to \$100,000 for goods and professional services, to \$200,000 for construction, and 7,000 square feet for lease of space.

[9:43:32 AM](#)

- * **Section 24:** Amends AS 36.30 by adding a new section 36.30.321

Adds a new section consolidating the Alaska bidder and related preferences formerly at AS 36.30.170(b). This section also simplifies the qualification for the disability and employment program preferences, eliminates the seldom used employers of people with disabilities preference, and establishes the Alaska veteran preference and its qualifications.

- * **Section 25:** Amends AS 36.30.322(a)

Modifies the use of local forest products statute to grant a seven percent cost preference to the qualifying bid rather than to the low bid, making this preference consistent with other preferences.

- * **Section 26:** Amends AS 36.30.336 by repealing and reenacting

Clarifies which preferences are cumulative and which may not be combined. (example: bidders cannot claim both an employment program preference and disabled bidder preference)

- * **Section 27:** Amends AS 36.30 by adding a new section 36.30.364

Adds a new section allowing the chief procurement officer to renegotiate a contract without an additional competitive process, subject to several conditions ensuring that the renegotiated contract is at least as favorable to the state as the original contract and that the additional period of performance does not exceed five years.

- * **Section 28:** Amends AS 36.30.560

Clarifies the timeframe within which a protest must be filed.

- * **Section 29:** Amends AS 36.30.565(b)

Clarifies the meaning of "good cause" requiring that a protestor show why they could not file a protest before the deadline, allowing a procurement officer to better determine whether to consider a filed protest that is not timely.

- * **Section 30:** Amends AS 36.30 by adding a new section 36.30.567

Adds new sections relating to protests, requiring a protest filing to be accompanied by a refundable \$250 filing fee.

[9:48:18 AM](#)

- * **Section 31:** Amends AS 36.30 by adding a new section 36.30.572

Adds a new section to allow a procurement officer to temporarily delay award of a contract in order to address a protest, rather than issue a stay of award.

- * **Section 32:** Amends AS 36.30.655

Eliminates reference to the removal of debarred or suspended persons from vendor lists, reflecting the repeal of a law establishing the vendor lists.

- * **Section 33:** Amends AS 36.30.700

Adds language to the cooperative purchasing section that allows the state to more effectively use contracts established by other public procurement units.

- * **Section 34:** Amends AS 36.30.700 by adding a new subsection (b)

Adds a new section explicitly authorizing the state to participate in cooperative procurements with other governments and waiving procurement preferences that otherwise prevent other public purchasing units from participating in cooperative purchase agreements sponsored or conducted by the state.

- * **Section 35:** Amends AS 36.30.850(b) by adding new paragraphs

Adds new exemptions for; contracts for lease space located outside the state; for contracts for investigative services entered into by the department for the Alaska personnel board, the office of public advocacy, and the Alaska Public Offices Commission; for commodities used in the prisoner employment program; and for professional training.

- * **Section 36:** Amends AS 36.30.900(1)

Adds the exemption for the Alaska Industrial Development and Export Authority and the Alaska Energy Authority.

*** Section 37:** Amends AS 36.30.900 by adding new paragraphs

Moves the definition for "Alaska bidder" (formerly contained in 36.30.170(b)), and adds new definitions for "electronic signature," "in writing," "signature," and "written."

[9:49:49 AM](#)

*** Section 38:** Amends AS 36.90.049(a)

Updates a citation to reflect the renumbering of a preference.

*** Section 39:** Amends AS 38.35.017(a)

Updates a citation to reflect the renumbering of a preference.

*** Section 40:** Amends AS 44.62.310(d)

Adds language to clarify that the Administrative Procedure Act does not apply to meetings with offerors under the multi-step negotiation process contained in section 18 or to renegotiation of contracts in section 28.

*** Section 41:** Amends AS 44.88.085(a)

Technical change regarding application of the Administrative Procedure Act to AIDEA.

*** Section 42:** Repeals statutes establishing the vendor list and relationships to other preferences.

*** Section 43:** Amends the uncodified law of the State of Alaska

Clarifies the application of the procurement act to pending solicitations during transition period.

*** Section 44:** Amends the uncodified law of the State of Alaska

Adds in transition language stating that the Dept. of Administration shall include in the two successive biennial reports after the effective date of this Act information on the savings that have been achieved by Sections 14 and 28 of this Act.

*** Section 45:** Amends the uncodified law of the State of Alaska

Changes the catch line of 36.30.360 from "Determination of responsibility" to "Determination of nonresponsibility."

*** Section 46:** Effective Date

Language making the procurement act effective immediately.

[9:51:01 AM](#)

Representative Austerman mentioned his confusion regarding Section 11 and asked for some clarification.

Mr. Jones replied that there are two issues at play. He noted that at present to be considered one must have an Alaskan Business License at the time a bid is submitted. This change would require an Alaska Business License prior to receiving an award.

Representative Austerman noted the electronic bidding in Section 21 and inquired how this would be monitored for rural areas that often have internet problems.

Mr. Jones replied that it would require systems and protocols to be put into place that were unavailable right now, but this section would just allow them to receive electronic bids and proposals. It would not require an electronic submission, but would allow it instead of requiring a signature on paper. Representative Austerman stressed that he did not want those without access to electronic bidding to be penalized. Mr. Jones agreed that was not anticipated.

Representative Austerman asked the time frame difference between a temporary delay rather than a "stay" of an award in Section 31. Mr. Jones explained that right now the only tool to delay an award is to "stay" an award. When an award is stayed, that means that the stay remains in place throughout the protest. This gives the procurement officer time to postpone an award with time to review the situation. He added this is happening right now, but there is no official permission in statute to do it.

[9:55:18 AM](#)

Representative Austerman asked if there are issues of frivolous protests. Mr. Jones replied that there are some frivolous protests, but this section would not necessarily be aimed at those. This section gives a tool to take time and not make an award immediately if there are unsure facts or more investigating is necessary to see if the protestor has a reasonable case.

[9:56:09 AM](#)

Representative Gara noted he was happy to give bidders preference to those who work in various industries, but concerned that if it is not carefully done, then state money will be given away and more expensive. He referred to page 16, lines 20-28 of the bill. He noted that the only requirement to get an Alaska bidder preference is to be qualified to do business in the state, have an Alaskan business license and maintain a place of business within the state staffed at least six months of the year. He expressed concern that an expensive bidders preference could be given to outside companies with a shell office here in the state. He asked if the bill could read "a principle place of business."

Mr. Jones remarked that was a good observation. He noted that this does not change from existing statute. The problem with requiring a principle place of business is that it is difficult to track and define. He added there are some businesses here, even though it is not their primary place of business, may employ more people here than a smaller Alaskan firm. Representative Gara reiterated that it was a big concern.

[9:59:12 AM](#)

[9:59:44 AM](#)

ADAM BLOMFIELD, OWNER, THE BLOMFIELD COMPANY, testified that Section 25, page 9 which would add the new section AS 36.30.321 eliminates the employers of people with disabilities preference. He also referred to Section 25, page 10, letter J eliminating the preferences for lease contracts. Mr. Blomfield related the history of his company. He added that removing this preference for hiring people with disabilities would be detrimental to his company. His only employee is his disabled sister, although he has also hired others. This preference allows disabled people to have a better chance of being hired to work in a company. Mr. Blomfield's second concern is removing all preferences for lease contracts. It is his belief that this would affect all Alaskans. He explained that once when bidding on a contract, he was the only Alaskan bidder and came in sixth in a pool of six bidders.

[10:06:08 AM](#)

RECESSED

[2:11:47 PM](#)

RECONVENED

Co-Chair Stoltze called the meeting back to order.

Representative Fairclough remarked that Mr. Blomfield's business is directly impacted by removing the lease provision therefore she inquired why the department is recommending the change.

Mr. Jones replied that in regards to Section 24 there are several changes to the section with two affecting Mr. Blomfield's business. One change would eliminate the seldom used employers of the disabled preference. He mentioned that there are three businesses currently enjoying this preference. The sponsor's bill would also eliminate the leases from applications of preferences in procurement. The thought when the legislature passed this several years ago is that it would not be applied to leases. There are many things that are looked at when looking for office real estate; price, location, condition, and environment. They are not concerned with the residence of the owners because it is a building in Alaska regardless of who owns it.

[2:16:21 PM](#)

Representative Fairclough asked for an estimate on the additional costs that have been paid on lease spaces to those employers hiring disabled Alaskans. She questioned if this was a big or small issue.

Mr. Jones replied that the current procurement system is not automated and there is no means on collecting the data on the cost of this or any other preference. He stressed that General Services is the only branch with this preference and only two or three employees would be affected. In a few instances it has made a difference in who received the award when the preference was put into practice.

Co-Chair Stoltze inquired if Mr. Jones could project a ballpark figure or percentage. Mr. Jones guessed that it would be several hundred thousand dollars, but he had no direct information.

[2:19:49 PM](#)

Representative Gara agreed that removing the lease preference sounded reasonable, but wanted to make sure that other disability preferences were not affected. Mr. Jones replied that the Blind Vendor program still remains in the Department of Labor. He added that there were also two other disability related preferences that will not be affected.

[2:21:12 PM](#)

Representative Fairclough asked how many square feet are affected under the employer preference. Mr. Jones replied he did not know.

Mr. Blomfield replied that zero has been affected. There are three other companies under the same ownership with one disabled employee. He spoke of eight year litigation with the state over this preference and thought his company might be caught in the middle of this.

Representative Fairclough inquired how this affects Mr. Blomfield's company if they had not won any awards. Mr. Blomfield replied he had bid two contracts with this preference and came very close. For his company to take on a giant company, it would be difficult for him to compete.

Representative Fairclough remarked that this would not negatively affect Mr. Blomfield's company if he had never won an award. She elaborated that it may reduce opportunities in the future to win a contract, but there has been no negative impact at this time. Mr. Blomfield agreed that it has not affected him or his company right now, but it could in the future.

Representative Fairclough asked if Mr. Blomfield's company won any contracts with the employment provision. Mr. Blomfield replied yes he had. Representative Fairclough asked how many square feet has been affected. Mr. Blomfield responded that the awards were not for lease contracts, they were supply contracts. Representative Fairclough asked how he would be affected. She inquired if Mr. Jones knew the dollar value for the committee to consider on how many supply contracts have been won. She understood that some under small procurement would not even be affected by what the legislature is doing.

Mr. Jones replied that the preference does apply to small procurements. He clarified that there have been leases awarded where this preference was the determining factor.

[2:25:40 PM](#)

Representative Fairclough asked if that was to the Fairbanks contractor. Mr. Jones replied yes.

[2:25:53 PM](#)

Representative Gara reiterated the deletion of the employer preference for hiring employees with disabilities and wondered how many employees a company must have to get this preference.

Mr. Jones replied that there is no number, but the law states that fifty percent of a company's workforce must be disabled.

Representative Gara asked how those companies hiring individuals with disabilities would be helped with the Employment Training preference. Mr. Jones responded that there are two other disabilities preferences; the disabled bidder preference and the employment program preference.

Representative Gara asked Mr. Blomfield if he received this preference because of hiring one family member with disabilities. Mr. Blomfield replied that he has one employee who is disabled, making this 100 percent in his company.

[2:28:22 PM](#)

Co-Chair Stoltze questioned the work load of the second employee who only works a few hours per month. He emphasized that it strikes him as a loophole. He asked if there was any requirement for the activity of the employee. Mr. Jones replied that he does not believe having one employee who qualifies is what the original drafters had in mind.

[2:29:24 PM](#)

Representative Gara asked Mr. Blomfield if he would hire his sister even if there was not a bidder preference.

Mr. Blomfield stressed that he would like to hire her, but not sure how this would impact his business. He commented that without the preference, outside companies would bring in their own employees and may not use Alaskans.

Representative Gara referred to page 9, line 21, listing a preference that allows the company to charge five percent more if it is an insurance related contract. Mr. Jones replied that this is not connected with the preference. This just states that an insurance company with that qualification can substitute for having an Alaska business license and still qualify to submit a bid. Representative Gara asked if an insurance company can charge five percent more. Mr. Jones responded no.

[2:32:25 PM](#)

Representative Fairclough asked what percentage of work Mr. Blomfield's disabled sister does for his company on a weekly basis. Mr. Jones elaborated that she is a full time secretary working at least 40 hours a week.

[2:33:17 PM](#)

Mr. Jones commented that the Committee Substitute before the committee makes certain changes to exempt construction from new innovative types of procurement. The change was never intended for construction and the Department of Transportation had never intended to use this type of procurements and they had no objection to exempting themselves.

Co-Chair Hawker closed public testimony.

[2:36:01 PM](#)

Representative Doogan inquired if Section 23, page 9, line 5, updates the amount of money the agency can spend without going to a formal bidding procedure. Mr. Jones agreed that was the intent. Representative Doogan asked why that should be done. Mr. Jones replied that the intent was to simplify a larger number of procurements. This is a more simplified form of competition to get quotes instead of issuing a formal invitation to bid and having a twenty one day circulation period. His noted that his agency only does high dollar procurements, not small ones. He believed this would free up the number of procurements under the small procurement threshold.

[2:38:15 PM](#)

Representative Doogan questioned why this would be wanted. He did not feel it was a compelling argument to just make life easier in agencies at the expense of the protections of a formal procurement process to everyone else. Mr. Jones responded that he would not characterize it in this manner. He stressed that it was a response to many things, but would primarily allows the agency staff to concentrate their time on doing more of the high dollar procurements. Representative Doogan remarked why the square footage was increasing. If square footage gets more expensive and there is a concern about some level payment, then the square footage should be decreased rather than doubling.

Mr. Jones remarked that right now the small procurement threshold for leases is 3000 square feet. He contended that this is a very small piece of real estate that requires a lengthy and expensive process. He believed that 7000 square feet would be a better fit for the moment to free up the time for the more complex and larger procurements.

Representative Doogan voiced his concern that this was being suggested as a method to free up people's time. He noted that procurement codes were necessary due to the long history of government contracting to some companies for reasons other than their ability to do the job. He believed there was something more at play than how difficult for staff to do the job.

[2:42:47 PM](#)

Representative Fairclough responded that she believed this to be a policy call. She inquired if Mr. Jones could provide the committee with additional information on the average square footage the state of Alaska leases. She asked if it was above the 3000 or 7000 square feet. Mr. Jones responded that he does not have exact figures, but the majority of the leases are over the 7000 square foot amount. He added that only contracting agents in contracting services of the executive branch have the authority to do leases. This is completed by five contracting officers and not a delegation of lease procurements.

Representative Fairclough voiced a concern that someone will receive bids or awards and not have to go through the process. She wanted to make sure the state is receiving benefit and that there is fair competition. She also asked about the cost of living adjustments and wondered when these numbers were looked at last and what legislative body put them in place. Mr. Jones responded that last change was in the mid-1990s when it was increased from \$25,000 to \$50,000 per non-construction procurement. Mr. Jones added it would be a minority of procurements that would fall under the 7000 square foot limits. Representative Fairclough reiterated that this is a policy decision. She emphasized that the ceilings were determined almost twenty years ago and the average amount of square footage the state tries to procure is larger than the 3000 square foot number.

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Representative Doogan referred to page 13, under the protest filing fee, and he noted that if there is a complaint one has to pay a \$250 filing fee. He continued that if the company wins the protest, then the money is returned, but if they lose, the money is forfeited. Mr.

Jones responded that was correct. Representative Doogan questioned how that amount was arrived at and wondered if, since there was no fee before, this just seemed like a fair number. Mr. Jones replied that was correct. Representative Doogan inquired on page 14, section 33, on cooperative purchasing agreements and wondered if he was correct that in all cases the cooperating entities would be state agencies. Mr. Jones replied that would be the typical situation, but any qualifying governmental entity would also qualify. Representative Doogan asked if the purpose was to drive down the cost. Mr. Jones replied that was correct.

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Representative Fairclough asked for Mr. Jones if in the procurement process they are procuring at the dollar amount or at 7000 square feet. She wondered under the current statute what happens to those procurements fewer than 3000 square feet. Mr. Jones replied that small procurements put the notice on line at the public notice website, take all qualified offers, and proceed to an evaluation process. He noted that the issue is a little less formal with fewer days getting the information out. He added that up to \$5000 there is reasonable competition; from \$5000 to \$25,000 there is a minimum of three quotes or informal proposals. Over \$25,000 up to the cap, the rule is three written quotes or informal proposals.

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Co-Chair Hawker targeted Section 24, the new section for preferences section under public contracts. He inquired if there is a current preference in these areas. Mr. Jones responded that there are a number of differently worded preferences in different sections of the statutes that will have to be tracked down that are worded differently. In this bill they have tried to take all the preferences, revise the wording so that they all work and act the same so people can understand them, and put them all in one place.

Co-Chair Hawker noted if there is going to be a new amalgamating section of code then look in the "repealer" section of the bill to see what is being repealed. He voiced that he was having a hard time finding how much of the existing preference process has been determined by

regulation rather than by pure statute. Mr. Jones said all the procurement preferences that exist now, except one, are statutorily based and that one would be eliminated with this bill in Section 24.

Co-Chair Hawker noted that the only place he found references to this is AS 36.30.170 and he does not see it being deleted. Mr. Jones responded that there are a number of sections that updates section, AS 36.30.015 and moves it.

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CRYSTAL KOENEMAN, STAFF, REPRESENTATIVE FAIRCLOUGH, interjected that in Section 13, page 6 of the bill, AS 36.30.170 states that it "is repealed and reenacted to read."

Mr. Jones elaborated that other preferences relating procurement are being drawn in. Co-Chair Hawker remarked that was the link he was determining to find, but added that some points in the language were confusing. He referred to the issue of domestic insurers in Section 25, subsection (a) that establishes the general rule if the "offeror is an Alaska bidder, a preference of five percent shall be applied to the price in the bid or proposal." He agreed this was very clear. He noted that in (c) "If a bidder or offeror qualifies as an Alaska bidder and is an Alaska domestic insurer, and if the procurement is for an insurance-related contract, a five percent preference shall be applied to the price in the bid or the proposal." He asked if Alaska domestic insurers are not included under subsection (a). Mr. Jones replied this is not a change to this existing language. The difficulty is that some insurance companies are not required to have a business license; therefore they would not otherwise qualify for a preference.

Co-Chair Hawker questioned if an Alaskan domestic insurer is being disqualified under subsection (a). Mr. Jones replied that was true. Co-Chair Hawker continued that this was difficult to read and figure out. He preferred to have bills written more simply. He wondered if the bill writers were aware of how difficult this would be for the average person to understand. Mr. Jones agreed that it could be worded better, but pointed out that this section would not change any existing language. Co-Chair Hawker reiterated

that there are lots of complaints regarding the interpretation of the procurement code.

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Representative Gara stressed that if the only requirement would be to have an Alaska Business license and an office for six months, then the person would receive the five percent preference. He believed this to be ripe for abuse and an extra expense for the state. He emphasized that he does not want to spend five percent more for insurance just because the company has an office in Alaska. Representative Gara wondered if there was an exemption for health insurance, lawyers and doctors. Mr. Jones remarked that there are specific procurements that are exempt from the procurement code, such as physicians, dentists, and psychiatrists. The state does procure third party administrator health care for its employees that are not exempt. He added that insurance services are not exempt from the procurement code. Representative Gara asked if that means they get the bidders preference. Mr. Jones responded that the procurement code applies and preferences would apply. He added that in order to qualify for the preference if you are in the insurance business, then it must qualify as a domestic insurer through the division. Representative Gara inquired if one just has to file with the Division of Insurance. Mr. Jones answered that he is not sure of the requirements.

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Co-Chair Stoltze declared that the bill needed to be held over to clarify some existing questions.

Representative Fairclough agreed that procurement is very complicated.

Co-Chair Stoltze WITHDREW his OBJECTION. There being NO further OBJECTION, CS for HB 225(FIN), 26\LS079\S, Bannister, 2/16/10, was ADOPTED as a working document.

CSHB 225 (FIN) was HEARD and HELD in Committee for further consideration.

Representative Fairclough asked committee members to please address any concerns about the bill to her office.

#hjr45

HOUSE JOINT RESOLUTION NO. 45

Urging the United States Congress not to enact Cap and Trade legislation.

HJR 45 was SCHEDULED but not HEARD.

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ADJOURNMENT

The meeting was adjourned at 3:09 PM.