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IN THE SENATE

BY SENATOR OWEN

SENATE BILL NO. 57

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-SECOND SESSION

A BILL

For an Act entitled: "An Act to terminate or limit those activities of Territorial, Municipal, Political Subdivisions and other government departments, agencies and instrumentalities which are conducted in competition with private enterprise; to establish the Anti-Government Competition Board; making an appropriation; and declaring an emergency."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. This Act may be cited as "The Anti-Government Competition Act."

Sec. 2. Declaration of Policy. It is declared to be the policy of this Act to promote the more rapid development of Alaska in all its phases by recognizing that the strength and future growth of the Territory rests upon the protection and encouragement of the free enterprise economic system; to propose, and assist in creating, opportunities for private investment, enterprise and employment and to vigorously oppose government, in all forms, engaging in business-type activities which accelerate the normal growth and development of private enterprise and employment thereby increasing their ability to pay the taxes without which the Government cannot exist. It is furthermore declared that this Act is intended to off-set, as

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and labor. All members must be competent, permanent residents and qualified voters of the Territory and their appointments shall be subject to confirmation by a majority of the Senate and House of Representatives in joint session assembled. Recess appointments may be made by the Governor, subject to confirmation by the Legislature at its next session following such appointment.

(c) At its first meeting the Board shall elect from its own members, a President, Vice-President and Secretary. A majority of the Board shall constitute a quorum.

(d) The term of Board members shall be for four years, except that those first appointed shall be designated to serve, two for four years and three for two years. If a vacancy occurs by resignation or otherwise during a term, the Governor shall appoint a successor to fill the unexpired term, subject to confirmation by the Legislature at its next session.

(e) The Board shall meet within thirty (30) days after appointment by the Governor; shall promulgate such rules and regulations relating to the achievement of the purposes of this Act and its declaration of policy as they shall deem desirable, necessary and adequate and are within the powers delegated by this Act as hereinafter set forth. The Board shall cooperate with all agencies of federal, territorial, municipal and political subdivision governments concerned with activities designed and intended to contribute to the growth and development of Alaska through the expenditure of public funds dedicated, allocated or otherwise appropriated or provided for such purposes which can be accomplished by private enterprise and employment. Such purposes are not to be construed to mean the normal

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26 Alaska through the expenditure of public funds dedicated, allo-
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2 such as possible, the risk of investing private capital in
3 Alaska and shall therefor be liberally construed in its inter-
4 pretation and determination of violations of the intent and
5 spirit of this Act by any and all forms of government engaged or
6 attempting to engage in business type operations that compete
7 with private enterprise.

8 Sec. 3. Creation of Anti-Government Competition Board.

9 In order to carry out the policies of this Act there is hereby
10 created the "Anti-Government Competition Board" of the Territory
11 of Alaska, hereinafter referred to as the "Board", whose duty it
12 shall be to carry out the purposes, policies and provisions of
13 this Act in order to provide for the most expeditious, orderly
14 and equitable termination of all phases of government competition
15 that are recognized as and determined to be injurious to private
16 enterprise.

17 (a) For the purposes of this Act and guidance of those
18 charged with its administration and enforcement, Government Com-
19 petition shall be deemed to be any business-type activity of the
20 government which is, or normally can be, engaged in by the
21 people.

22 (b) The Board shall consist of five members, without
23 consideration of political complexions or affiliations, appointed
24 by the Governor as follows: One (1) from the Territorial Depart-
25 ment of Taxation; One (1) from a recognized, commercial National
26 Bank engaged in general finance in Alaska; One (1) from an in-
27 dustry recognized as offering year-round employment in a distinct
28 branch of trade; One (1) from a mercantile business representa-
29 tive of merchants or commercial trade; and One (1) from organi-

DR# 37

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29 zed labor. All members must be competent, permanent residents

1 executive, administrative or dispensational services traditionally
2 recognized and admitted to be vested service responsibilities of
3 formal government procedure nor to jeopardize any functions that
4 might be classified or restricted to the extent that private
5 enterprise and/or employment might create hazardous conditions.

6 (f) The Board shall establish such local advisory
7 committees as may be necessary to assist in expediently carrying
8 out any duty assigned to it. Such local advisory committees
9 shall be comprised of two or more persons, according to Board
10 requirements, but in no case shall any advisory committee consist
11 of less than one member of industry and one member of labor. Ad-
12 visory committees shall be local in nature and of an adjuvant
13 type qualified to contribute auxiliary services to the Board
14 without remuneration for such service regardless of time devoted
15 or travel required within the local vicinity.

16 (g) The Board shall hold regular meetings at least
17 twice annually at such times and places as it deems desirable,
18 and shall hold such special meetings as are deemed necessary by
19 the President or requested by two or more Board members. The
20 members of the Board shall receive actual travel expenses and
21 per diem while attending meetings of the Board and, in addition
22 thereto, the sum of \$10.00 per day for each day such member is
23 actually and necessarily absent from his place of residence in
24 order to carry out the purposes of this Act.

25 Sec. 4. Special Authority of the Board. The Board shall
26 have free and ready access at all times to records, books of
27 account, correspondence, papers, documents, engineering studies,
28 reports and estimates, bid and performance bonds proposed and
29 existing relating to the procurement and services of every

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nature including, but not restricted to, labor, materials, structures, buildings of all types whether permanent or temporary; printing, photographic supplies, mechanical contrivances, devices or inventions; vehicles whether passenger or cargo or owned or rented as well as any and all other such data that might serve the purpose of making comparisons of different methods of procuring services and property when territorial funds, in whole or in part, are involved in any and all matters deemed by the Board to be or to approximate a business-type operation under direct, indirect, full or partial control of any and all Territorial boards, commissions, agencies, officials and/or employees.

(a) The Board shall, in addition to the above responsibilities and authorities, pertaining to activities involving Territorial funds as outlined, be empowered and required to cooperate with all other government agencies, whether federal, municipal or other political subdivisions to jointly pursue the intent of mutually protecting private enterprise and employment from government encroachment by collaborative investigations, analyses, collations and collections of data when any such other government agencies, as itemized above, engage or propose to engage in procurement of services and/or properties of any and all types by using funds that have in whole or in part been matched or supplemented by Territorial funds and which, in the opinion of the Board is or can become an invasion of the rights of private enterprise and/or employment.

(b) The Board shall, under authority of this Act, use all data, collected or obtained in any manner, as defined in Sections 4 and 4 (a) to institute immediate action to prevent or terminate, as the case might require, in the opinion of the

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1 Board, any and all business-type enterprise by any and all govern-
2 ment departments, agencies, establishments, political subdivi-
3 sions and instrumentalities which are or might become violations
4 of the intent, purpose and spirit of this Act which, in con-
5 junction with its declaration of policy are herewith restated to
6 be that all such government entities shall get out and stay out
7 of business-type competition with the people of Alaska wherever
8 consistent with the best interests of the people.

9
10 (e) The Board is authorized, under the provisions of
11 this Act, to resist to the fullest, through enjoiner or injunc-
12 tive restraint, if necessary and available or through Congres-
13 sional mandate if required, the participation or sharing, in any
14 sense or degree, by any component or element of Territorial,
15 municipal, or other political subdivision agency or establish-
16 ment, in any federal appropriation, when in the opinion of the
17 Board such participating or sharing entities are using or pro-
18 pose or plan to use such funds in competition with private enter-
19 prise and employment.

20 Sec. 5. Appeal from Board Action. If in any event, action
21 by the Board authorized and consummated or anticipated under
22 provisions of this Act, shall require an appeal by any party
23 actually or presumably affected by reason of such Board action,
24 the Governor shall designate and appoint not less than three nor
25 more than five members of the Board of Engineers and Architects
26 Examiners, regardless of political complexions or affiliations
27 as an appeal panel to which the party claiming to be affected
28 or aggrieved may refer the action of the Board for such relief
29 or removal of Board action as may be sought by such party. In
30 event the appeal panel consists of three members not more than

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2 one can be a representative of any government department, agency,
3 establishment, instrumentality or political subdivision. When an
4 appeal panel consists of five members not more than two can be
5 representatives of any government department, agency, establish-
6 ment, instrumentality or political subdivision. At no time
7 shall any appeal panel be comprised of four persons unless one
8 of such persons has the proxy of the duly appointed fifth mem-
9 ber. Remuneration to members of the appeal panel shall be
10 identical to that of Board members in all instances which is to
11 say in or out of travel status. Appeal panels shall designate
12 their own Chairmen.

13 (a) Any appeal from Board action shall be made in
14 writing to the appointed panel Chairman setting forth all rea-
15 sons why the party affected or presumed to be affected should not
16 be considered in violation of the provisions of this Act and
17 state specifically what relief is requested. Upon receipt of
18 such written and documented appeal the panel shall evaluate all
19 pertinent details equitably and promptly and shall return a
20 written decision to all parties concerned within thirty (30)
21 days from date of receipt of such appeal. The decision of the
22 appeal panel shall be final and binding on all parties to the
23 dispute and appeal.

24 Sec. 6. There is hereby appropriated the sum of \$3,000.00
25 or so much thereof as is necessary, to carry out the provisions
26 of this Act, from funds not otherwise appropriated in the Terri-
27 torial Treasury.

28 Sec. 7. If any provision of this Act or the application
29 thereof to any person, entity of government or circumstance is
30 invalid, such invalidity shall not affect other provisions of

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the Act which can be given effect without the invalid provision or application, particularly to Territorial agencies, departments, establishments and instrumentalities, and to this end the provisions of this Act are declared to be severable.

Sec. 8. An emergency is hereby declared to exist, and this Act shall be in full force and effect from and after the date of its passage and approval.

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