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Referred: Resources and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 *SCS* HOUSE BILL NO. 846 *(Fin)amS*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Fisheries Economic Impact
7 Council."

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

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

10 ARTICLE 6. FISHERIES ECONOMIC IMPACT COUNCIL.

11 Sec. 44.33.250. FISHERIES ECONOMIC IMPACT COUNCIL. There is
12 created in the Department of Commerce and Economic Development the
13 Fisheries Economic Impact Council.

14 Sec. 44.33.255. PURPOSE OF COUNCIL. The council is created to
15 advise the governor of the probability of an area within the state
16 becoming economically impacted by a fisheries failure, of economic
17 measures which may be taken to alleviate the effects of the fisheries
18 failure, and of the advisability of designating an area as an area
19 economically impacted by a fisheries failure so that special emergency
20 measures may be implemented to alleviate the financial distress inherent
21 in a fisheries failure.

22 Sec. 44.33.260. MEMBERSHIP AND VACANCIES. The council consists
23 of the following five directors: the commissioner of the Department
24 of Commerce and Economic Development, the commissioner of the De-
25 partment of Fish and Game, and three other persons appointed by the
26 governor. The three directors appointed by the governor serve at his
27 pleasure for three-year terms; they must be residents of the state and
28 qualified voters at the time of appointment and shall comply with the
29 requirements of AS 39.50. Initial terms of the three appointed

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1 directors are one, two, and three years, respectively. A director is
2 eligible for reappointment. A vacancy in a directorship occurring
3 other than by expiration of the term shall be filled in the same
4 manner as the original appointment for the unexpired term only.

5
6 Sec. 44.33.265. OFFICERS AND QUORUM. The commissioner of the
7 Department of Commerce and Economic Development shall be chairman of
8 the council. Three directors constitute a quorum.

9 Sec. 44.33.270. COMPENSATION AND EXPENSES. The directors of the
10 council serve without compensation but are entitled to travel expenses
11 and per diem as authorized by law.

12 Sec. 44.33.275. STAFF. Staff support for the council shall be
13 provided by the department. In addition, the council may in its dis-
14 cretion employ an executive director and other employees as required.
15 Employees of the council, other than the executive director, are in
16 the classified service under AS 39.25.

17 Sec. 44.33.280. POWERS OF COUNCIL. The council may

- 18 (1) adopt bylaws for the conduct of its business;
- 19 (2) maintain an office at any location;
- 20 (3) accept a grant or gift from a governmental unit or
21 person, firm, or corporation to carry out the provisions of this
22 chapter, make agreements with respect to a gift or grant, and do all
23 things necessary, useful, and desirable or convenient in connection
24 with procuring, accepting, or disposing of a gift or grant;
- 25 (4) recommend to the governor areas to be designated as an
26 area economically impacted by a fisheries failure;
- 27 (5) recommend to the governor means to alleviate the impact
28 of a fisheries failure in a designated area.

29 Sec. 44.33.285. ACTION BY GOVERNOR. The governor may, upon
recommendation of the council, designate by proclamation an area as an

1 area economically impacted by a fisheries failure. When an area is so
2 designated, the governor may recommend in his budget submission that
3 capital projects planned for the area be accelerated and that new
4 projects be funded for the area. The proclamation may provide that
5 waivers of capital projects requirements, as authorized in sec. 300 of
6 this chapter, become effective only to the extent set out in the
7 proclamation.

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

20 Sec. 44.33.295. CONTRACTORS' PREFERENCE. If the department
21 determines that there are contractors in an area designated as an area
22 economically impacted by a fisheries failure and who are qualified to
23 perform a contract, preference to the extent feasible shall be given
24 to those contractors under regulations adopted by the council.

25 Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the governor
26 has by proclamation declared an area economically impacted by a fisheries
27 failure, the following provisions regarding public contracts may be
28 waived to the extent specified in the proclamation:

29 (1) the requirement of a contractor's bond as prescribed in

1 AS 36.25.010 may be waived if the contract amount does not exceed
2 \$100,000;

3 (2) the public bid requirements as contained in AS 19.10.170,
4 19.10.190, 19.30.191(b), and 35.15.010--35.15.030 may be waived if the
5 contract is to be performed by a contractor whose principal office is
6 in the designated area and the contract amount does not exceed \$100,000;

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

11 Sec. 44.33.305. REGULATIONS. The department, after consultation
12 with the Department of Labor, may adopt regulations to implement this
13 chapter.

14 Sec. 44.33.310. DEFINITIONS. In this chapter,

15 (1) "base period" means any 10 years after 1950, not neces-
16 sarily continuous, during which a fishery produced at economically
17 acceptable levels as determined by the Department of Fish and Game;

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

20 (3) "fisheries failure" means that the income to the
21 participants in a fishery dropped below 50 per cent of the average
22 annual income for the base period for that fishery and the drop in
23 income is of such magnitude that the average family income of all
24 residents of the designated area as determined by the council is below
25 the Federal Social Security Administration Poverty Guideline, adjusted
26 by the council to reflect appropriate cost-of-living differentials.

27 * Sec. 2. AS 19.10.170 is amended to read:

28 Sec. 19.10.170. CONSTRUCTION BY DEPARTMENT. Except as provided
29 in AS 44.33.300, it [IT] shall be the general policy of the department

1 to require the construction of all highways under bid contract.
2 However, when the estimated cost of a construction project is less
3 than \$20,000 or when it appears to be in the best interests of the
4 state, the department may perform the work notwithstanding any other
5 provisions of law.

6 * Sec. 3. AS 19.10.190 is amended to read:

7 Sec. 19.10.190. ADVERTISEMENT, BIDS, CONTRACTS, AND INFORMAL
8 BIDS. Except as provided in AS 44.33.300, when [WHEN] the estimated
9 cost of any construction exceeds \$20,000, the department shall, except
10 as provided in sec. 170 of this chapter, proceed to advertise, request
11 bids, and award the contract in the manner provided in secs. 200 and
12 210 of this chapter. Whenever any proposed construction contract is
13 for a sum less than \$20,000, it shall be discretionary with the depart-
14 ment whether the contract shall be advertised and awarded in accordance
15 with secs. 200 and 210 of this chapter. In all events the department
16 shall request informal bids from as many contractors as can be re-
17 quested conveniently.

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

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

1 * Sec. 5. AS 35.15.010 is amended to read:

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

9 * Sec. 6. AS 35.15.030 is amended to read:

10 Sec. 35.15.030. ADVERTISEMENT, BIDS, CONTRACTS, AND INFORMAL
11 BIDS. When the estimated cost of any construction exceeds \$20,000,
12 the department shall, except as provided in sec. 10 of this chapter
13 and in AS 44.33.300, proceed to advertise, request bids, and award the
14 contract in the manner provided in secs. 40 and 50 of this chapter.
15 When any proposed construction contract is for a sum less than \$20,000,
16 it is discretionary with the department whether the contract is adver-
17 tised and awarded in accordance with secs. 40 and 50 of this chapter.
18 In all events the department shall request informal bids from as many
19 contractors as can be requested conveniently.

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

21 Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of
22 contracts let by the state or a political subdivision of the state for
23 construction, repair, preliminary surveys, engineering studies, con-
24 sulting, maintenance work or any other retention of services necessary
25 to complete any given project, 95 per cent residents shall be employed
26 where they are available and qualified. If 10 or fewer persons are
27 employed under the contract, then 90 per cent residents shall be
28 employed where they are available and qualified. In all cases of
29 public works projects, preference shall be given to residents. In an

1 area which has been designated as an area economically impacted by a
2 fisheries failure, residents of that area shall be given employment pre-
3 ference as provided in AS 44.33.290, followed by other residents of the
4 state.

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

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

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

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

1 shall be in the sum of \$2,500,000.

2 * Sec. 9. AS 39.25.120 is amended by adding a new paragraph to read:

3 (9) the executive director of the Fisheries Economic Impact
4 Council.

5 * Sec. 10. AS 39.50.200(9) is amended by adding a new subparagraph to
6 read:

7 (LL) Fisheries Economic Impact Council (AS 44.33.250).
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