

Original sponsor: Rules Committee by  
request of the Governor

Offered: 5/12/76  
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 846 (Finance)

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 Council;  
7 and providing for an effective date."

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 in the state becoming  
16 economically impacted by a fisheries failure, of economic measures which  
17 may be taken to alleviate the effects of the fisheries failure, and of  
18 the advisability of designating an area as an area economically impacted  
19 by a fisheries failure so that special emergency measures may be imple-  
20 mented to alleviate the financial distress inherent in a fisheries  
21 failure.

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

1 of AS 39.50. Initial terms of the four appointed directors are one,  
2 two, three and four years, respectively. A director is eligible for  
3 reappointment. A vacancy in a directorship occurring other than by  
4 expiration of the term shall be filled in the same manner as the origi-  
5 nal appointment for the unexpired term only.

6 Sec. 44.33.265. OFFICERS AND QUORUM. The commissioner of commerce  
7 and economic development shall be chairman of the council. Four direc-  
8 tors 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 of Commerce and Economic Development. In  
14 addition, the council may in its discretion employ an executive director  
15 and other employees as required. Employees of the council, other than  
16 the executive director, are in 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 chapter,  
22 make agreements with respect to a gift or grant, and do all things  
23 necessary, useful, and desirable or convenient in connection with  
24 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 recom-

1 mendation of the council, designate by proclamation an area as an area  
2 economically impacted by a fisheries failure. When an area is so  
3 designated, assistance grants shall be made by the Department of Com-  
4 merce and Economic Development as provided in AS 37.11.100 and the  
5 governor may recommend in his budget submission that capital projects  
6 planned for the area be accelerated and that new projects be funded for  
7 the area. The proclamation may provide that waivers of capital projects  
8 requirements, as authorized in sec. 300 of this chapter, become effec-  
9 tive only to the extent set out in the proclamation.

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

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

27 Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the governor  
28 has by proclamation declared an area economically impacted by a fisher-  
29 ies failure, the following provisions regarding public contracts may be

1 waived to the extent specified in the proclamation:

2 (1) the requirement of a contractor's bond as prescribed in  
3 AS 36.25.010 may be waived if the contract amount does not exceed  
4 \$100,000;

5 (2) the public bid requirements as contained in AS 19.10.170,  
6 19.10.190, 19.30.191(b), and AS 35.15.010 - 35.15.030 may be waived if  
7 the contract is to be performed by a contractor whose principal office  
8 is in the designated area and the contract amount does not exceed  
9 \$100,000;

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

14 Sec. 44.33.305. REGULATIONS. The department, after consultation  
15 with the Department of Labor, may adopt regulations to implement secs.  
16 250 - 310 of this chapter.

17 Sec. 44.33.310. DEFINITIONS. In this chapter,

18 (1) "base period" means any 10 years after 1950, not neces-  
19 sarily continuous, during which a fishery produced at economically  
20 representative levels as determined by the council in consultation with  
21 the Department of Fish and Game;

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

24 (3) "fisheries failure" means that the income to the partici-  
25 pants in a fishery dropped below the average annual income for the base  
26 period for that fishery and the drop in income is of such magnitude that  
27 the average family income of all residents of the designated area who  
28 are participants in the fishery as determined by the council is below  
29 the Federal Social Security Administration Poverty Guideline, adjusted

1 by the council to reflect appropriate cost-of-living differentials; the  
2 availability of alternate employment in the designated area shall be  
3 considered in determining whether a fisheries failure has occurred under  
4 this paragraph.

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

6 Sec. 19.10.170. CONSTRUCTION BY DEPARTMENT. Except as provided  
7 in AS 44.33.300, it [IT] shall be the general policy of the department  
8 to require the construction of all highways under bid contract. How-  
9 ever, when the estimated cost of a construction project is less than  
10 \$20,000 or when it appears to be in the best interests of the state, the  
11 department may perform the work notwithstanding any other provisions of  
12 law.

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

14 Sec. 19.10.190. ADVERTISEMENT, BIDS, CONTRACTS, AND INFORMAL  
15 BIDS. Except as provided in AS 44.33.300, when [WHEN] the estimated  
16 cost of any construction exceeds \$20,000, the department shall, except  
17 as provided in sec. 170 of this chapter, proceed to advertise, request  
18 bids, and award the contract in the manner provided in secs. 200 and  
19 210 of this chapter. Whenever any proposed construction contract is  
20 for a sum less than \$20,000, it shall be discretionary with the depart-  
21 ment whether the contract shall be advertised and awarded in accordance  
22 with secs. 200 and 210 of this chapter. In all events the department  
23 shall request informal bids from as many contractors as can be re-  
24 quested conveniently.

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

26 (b) Except as provided in AS 44.33.300, construction [CONSTRUC-  
27 TION] of each project subject to the provisions of this section shall  
28 be performed by contract awarded by competitive bidding, unless the  
29 commissioner finds that, under the circumstances relating to the

1 project, some other method is in the public interest. Contracts for  
2 the construction of each project shall be awarded only on the basis of  
3 the lowest responsible bid submitted by a bidder meeting established  
4 criteria of responsibility. No requirement or obligation may be imposed  
5 upon a bidder as a condition precedent to the award of a contract to a  
6 bidder unless the requirement or obligation is otherwise lawful and  
7 specifically set out in the advertised specifications.

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

9 Sec. 35.15.010. CONSTRUCTION BY DEPARTMENT. Except as provided  
10 in AS 44.33.300, it [IT] shall be the general policy of the department  
11 to require the construction of all public works under bid contract.  
12 However, when the estimated cost of a construction project is less than  
13 \$20,000, or when it appears to be in the best interests of the state,  
14 the department may perform the work, notwithstanding any other provi-  
15 sions of law.

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

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

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

28 Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of  
29 contracts let by the state or a political subdivision of the state for

1 construction, repair, preliminary surveys, engineering studies, con-  
2 sulting, maintenance work or any other retention of services necessary  
3 to complete any given project, 95 per cent residents shall be employed  
4 where they are available and qualified. If 10 or fewer persons are  
5 employed under the contract, then 90 per cent residents shall be  
6 employed where they are available and qualified. In all cases of  
7 public works projects, preference shall be given to residents. In an  
8 area which has been designated as an area economically impacted by a  
9 fisheries failure, residents of that area shall be given employment pre-  
10 ference as provided in AS 44.33.290, followed by other residents of the  
11 state.

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

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

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

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

1 shall be in a sum of one-half the total amount payable by the terms of  
2 the contract; when the total amount payable by the terms of the contract  
3 is more than \$1,000,000 and not more than \$5,000,000, the payment bond  
4 shall be in a sum of 40 per cent of the total amount payable by the  
5 terms of the contract; when the total amount payable by the terms of  
6 the contract is more than \$5,000,000, the payment bond shall be in the  
7 sum of \$2,500,000.

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

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

11 \* Sec. 10. AS 39.50.200(9) is amended by adding a new subparagraph to  
12 read:

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

14 \* Sec. 11. AS 37.11 is amended by adding a new section to read:

15 ARTICLE 2. ALASKA FISHERY IMPACT FUND.

16 Sec. 37.11.100. ALASKA FISHERY IMPACT FUND. (a) There is estab-  
17 lished a separate fund known as the Alaska fishery impact fund which  
18 shall be administered by the Department of Commerce and Economic Develop-  
19 ment. Funds designated in this section and apportioned by statute for  
20 deposit in the Alaska fishery impact fund are for grants to assist  
21 economically impacted fishing communities within areas designated by a  
22 proclamation under AS 44.33.285.

23 (b) A computed amount equivalent to not less than two per cent of  
24 the receipts paid the state from mineral lease bonuses and rentals for  
25 state land and royalties derived from minerals produced on state land  
26 may be appropriated by the legislature to the Alaska fishery impact  
27 fund. The fund balance may not exceed \$15,000,000. The commissioner of  
28 revenue, after determining that there is in the Alaska fishery impact  
29 fund a surplus above an amount sufficient to meet anticipated demands,

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may invest the surplus as provided in ch. 10 of this title. Interest derived from investment of surplus funds shall be deposited to the general fund.

(c) Unappropriated or otherwise unencumbered balances remaining in the Alaska fishery 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.

\* Sec. 12. This Act takes effect immediately in accordance with AS 01.10.070(c).

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