

Original sponsor: Rules Committee by  
request of the Governor

Offered: 5/27/76  
Referred: Rules

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 846 am S

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

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

9 ARTICLE 6. FISHERIES ECONOMIC IMPACT COUNCIL.

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

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

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

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

5 Sec. 44.33.265. OFFICERS AND QUORUM. The commissioner of commerce  
6 and economic development shall be chairman of the council. Four direc-  
7 tors constitute a quorum; however at least two must be public members.

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

11 Sec. 44.33.275. STAFF. Staff support for the council shall be  
12 provided by the Department of Commerce and Economic Development. In  
13 addition, the council may in its discretion employ an executive director  
14 and other employees as required. Employees of the council, other than  
15 the executive director, are in the classified service under AS 39.25.

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

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

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

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

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

21 (b) Wages paid for employment under this section shall be in con-  
22 formance with the minimum rates of pay schedule published by the Depart-  
23 ment of Labor in accordance with AS 36.05.030.

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

29 Sec. 44.33.300. WAIVER OF CERTAIN PROVISIONS. When the governor

1 has by proclamation declared an area economically impacted by a fisher-  
2 ies failure, the following provisions regarding public contracts may be  
3 waived to the extent specified in the proclamation:

4 (1) the requirement of a contractor's bond as prescribed in  
5 AS 36.25.010 may be waived if the contract amount does not exceed  
6 \$50,000;

7 (2) the public bid requirements as contained in AS 19.10.170,  
8 19.10.190, 19.30.191(b), and AS 35.15.010 - 35.15.030 may be waived if  
9 the contract is to be performed by a contractor whose principal office  
10 is in the designated area and the contract amount does not exceed  
11 \$50,000;

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

16 Sec. 44.33.305. REGULATIONS. The department, after consultation  
17 with the Department of Labor, may adopt regulations to implement secs.  
18 250 - 310 of this chapter.

19 Sec. 44.33.310. DEFINITIONS. In this chapter,

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

24 (2) "department" means the Department of Commerce and Economic  
25 Development;

26 (3) "fisheries failure" means that the annual income to the  
27 participants in a fishery dropped below the average annual income for  
28 the base period for participants in that fishery and the drop in income  
29 is of such magnitude that the average family income of all residents of

1 the designated area as determined by the council is below the Federal  
2 Social Security Administration Poverty Guideline, adjusted by the  
3 council to reflect subsistence economic patterns and appropriate cost-  
4 of-living differentials; the availability of alternate employment shall  
5 be considered in determining whether a fisheries failure has occurred  
6 under this paragraph.

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

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

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

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

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

28 (b) Except as provided in AS 44.33.300, construction [CONSTRUC-  
29 TION] of each project subject to the provisions of this section shall

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

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

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

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

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

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

1           Sec. 36.10.010. EMPLOYMENT PREFERENCE. In the performance of  
2 contracts let by the state or a political subdivision of the state for  
3 construction, repair, preliminary surveys, engineering studies, con-  
4 sulting, maintenance work or any other retention of services necessary  
5 to complete any given project, 95 per cent residents shall be employed  
6 where they are available and qualified. If 10 or fewer persons are  
7 employed under the contract, then 90 per cent residents shall be  
8 employed where they are available and qualified. In all cases of  
9 public works projects, preference shall be given to residents. In an  
10 area which has been designated as an area economically impacted by a  
11 fisheries failure, residents of that area shall be given employment pre-  
12 ference as provided in AS 44.33.290, followed by other residents of the  
13 state.

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

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

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

26           (2) a payment bond with a corporate surety qualified to do  
27 business in the state, or at least two individual sureties who shall  
28 each justify in a sum equal to the amount of the bond for the protection  
29 of all persons who supply labor and material in the prosecution of the

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

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

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

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

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

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

17 ARTICLE 2. ALASKA FISHERY IMPACT FUND.

18 Sec. 37.11.100. ALASKA FISHERY IMPACT FUND. (a) There is estab-  
19 lished a separate fund known as the Alaska fishery impact fund which  
20 shall be administered by the Department of Commerce and Economic Develop-  
21 ment. Funds designated in this section and apportioned by statute for  
22 deposit in the Alaska fishery impact fund are for grants or loans to  
23 assist economically impacted fishing communities within areas designated  
24 by a proclamation under AS 44.33.285. The Department of Community and  
25 Regional Affairs, in consultation with the Department of Fish and Game,  
26 shall determine which communities are economically impacted fishing  
27 communities.

28 (b) Based on consideration of need, the legislature may appropriate  
29 to the Alaska Fishery Impact Fund from the Renewable Resource Fund,

1 Chapter 130, SLA 1974. If there is an insufficient balance in the  
2 Renewable Resource Fund to meet emergency needs that may be determined  
3 under the provisions of section 255 the legislature may appropriate  
4 from the general fund. The Alaska Fishcry Impact Fund balance may  
5 not exceed \$5,000,000. The commissioner of revenue, after determining  
6 that there is in the Alaska Fishery Impact Fund a surplus above an  
7 amount sufficient to meet anticipated demands, may invest the surplus as  
8 provided in Chapter 10 of this title. Interest derived from investment  
9 of surplus funds shall be deposited to the Renewable Resource Fund.

10 (c) Unappropriated or otherwise unencumbered balances remaining  
11 in the Alaska fishery impact fund at the close of each fiscal year  
12 shall not lapse as provided in AS 37.25.010 but shall be available in  
13 perpetuity for fund purposes.  
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