

1 IN THE HOUSE

BY THE LABOR AND MANAGEMENT COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 864

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to equal employment opportunity,
7 minority businesses, and the Alaska Plan; and providing
8 for an effective date."

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

10 * Section 1. AS 44.19 is amended by adding new sections to read:

11 ARTICLE 13. OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY.

12 Sec. 44.19.960. OFFICE CREATED. The office of equal employment
13 opportunity is established in the Office of the Governor.

14 Sec. 44.19.962. DIRECTOR. (a) The office is administered by a
15 director appointed by the governor and serving at the pleasure of the
16 governor. The director shall be selected by the governor from at least
17 three names submitted by the committee.

18 (b) The director shall act as an advisor to the governor on equal
19 employment policies and practices and on the program of the state for
20 affirmative action.

21 Sec. 44.19.964. COMMITTEE. (a) The governor shall appoint an
22 advisory committee to assist the director in the development of the
23 state equal employment opportunity and affirmative action programs. The
24 committee shall be composed of seven persons who are broadly represen-
25 tative of the members of the protected classes and who are not state
26 employees. Members of the committee serve three-year terms at the
27 pleasure of the governor.

28 (b) The committee members serve without compensation but are
29 entitled to per diem and travel expenses established under AS 39.20.180.

1 (c) The director of the division of personnel and labor relations
2 is a non-voting, ex officio member of the committee.

3 Sec. 44.19.966. PERSONNEL. The director shall employ, with the
4 approval of the governor, such personnel as may be necessary to carry
5 out the provisions of secs. 960 - 970 of this chapter.

6 Sec. 44.19.968. FUNCTIONS AND DUTIES OF THE DIRECTOR. (a) The
7 director shall act to ensure the recruitment of members of the protected
8 classes for employment and to ensure that all employees and applicants
9 for employment are treated fairly and not subjected to discrimination
10 prohibited by state or federal law as to employment, applications for
11 employment, recruitment or recruitment advertising, apprenticeship,
12 training, promotion, demotion, transfer, lay-off, or termination, rates
13 of pay or other forms of compensation, and the terms and conditions of
14 employment.

15 (b) The director shall formulate policies, plans, and programs
16 designed to promote equal employment recruitment and opportunity and
17 shall establish and periodically review an affirmative action plan for
18 employment in the executive branch of the state government.

19 (c) The director shall make an annual report to the legislature
20 on the status of the office's efforts and achievements on equal employ-
21 ment policies and practices. The report shall include an assessment
22 of the progress made by each department toward equal employment oppor-
23 tunities. The director or committee may also make reports to the
24 ombudsmen and the Commission for Human Rights concerning problems in
25 agency compliance with affirmative action plans.

26 (d) The director shall advise and make administrative and legisla-
27 tive recommendations to the governor on

28 (1) procedures that will insure the effective affirmative re-
29 cruitment of members of the protected classes into the work force of the

1 executive branch;

2 (2) procedures which will identify those departments, agen-
3 cies, and grade levels where corrective action is required;

4 (3) procedures and plans in both the departments and agencies
5 generally and in the personnel system specifically which will eliminate
6 barriers to progress by members of the protected classes;

7 (4) procedures for the continual, periodic review of the
8 success departments and agencies are achieving in their recruitment
9 efforts;

10 (5) procedures for the direct assistance to members of the
11 protected classes in their applications for employment;

12 (6) procedures to train personnel and administrative officers
13 and make them aware of discriminatory procedures and practices;

14 (7) procedures to counteract conscious or unconscious nega-
15 tive attitudes on the part of the state's officers and employees towards
16 the members of the protected classes;

17 (8) procedures for the review and restructuring of position
18 descriptions, career ladders, salary scales, the terms and conditions of
19 employment and records maintenance, to promote the employment of the
20 members of the protected classes.

21 (e) The director shall serve as the technical advisor to agencies
22 in the executive branch of the state government on compliance by the
23 agencies with AS 18.80 and with the provisions of federal law prohi-
24 biting discrimination.

25 Sec. 44.19.970. DEFINITIONS. As used in secs. 960 - 970 of this
26 chapter, "members of the protected classes" means those persons pro-
27 tected by federal or state anti-discrimination laws.

28 * Sec. 2. AS 36 is amended by adding a new chapter to read:

29 CHAPTER 12. CONTRACTS TO MINORITY BUSINESSES.

1 Sec. 36.12.010. LEGISLATIVE FINDINGS. The legislature finds that

2 (1) the Alaska minority business community suffers economic
3 distress due to receiving a disproportionately low percentage of con-
4 tracts awarded by the state;

5 (2) while minorities comprise more than 15 per cent of the
6 Alaska population, only a small percentage of state contracts were
7 awarded to minority business enterprises;

8 (3) this inequity contributes to the high unemployment in the
9 minority community;

10 (4) this unfairness has the additional effect of limiting the
11 aspirations of minority children to become leaders in the business
12 community;

13 (5) it is in the public interest that the principles relating
14 to the encouragement of minority enterprise embodied in the Public Works
15 Employment Act of 1977, P.L. 95-28, be extended to all procurement by
16 the state.

17 Sec. 36.12.020. DECLARATION OF POLICY. In support of the public
18 policy of equal opportunity and to overcome past discrimination in the
19 allocation of contracts, it is declared to be the policy of the state
20 that at least 15 per cent of the total dollar value of all construction
21 projects let by the state be awarded to minority business enterprises
22 and that at least 15 per cent of the employees assigned to perform work
23 on state construction projects be minorities. To implement this policy,
24 the state shall

25 (1) design all contracts as to size, solicitations, time for
26 the preparation of bids, and the manner of performance so as to facili-
27 tate the opportunity for participation by minority business enterprises;
28 and

29 (2) require all state contractors and subcontractors to en-

1 sure that at least 15 per cent of their employees assigned to perform
2 work on the state contracts or subcontracts be minorities and that an
3 equitable proportion of those minority employees be minority women; the
4 requirements of this paragraph do not apply to a contractor or sub-
5 contractor who is signatory to the Alaska Plan and currently in com-
6 pliance with his commitment to the Alaska Plan.

7 Sec. 36.12.030. CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE.

8 (a) In order to qualify under the provisions of this chapter, a minor-
9 ity business enterprise shall obtain prior certification of that status
10 from the director.

11 (b) The director may adopt regulations under the procedures set
12 out in AS 44.62 as may be necessary to carry out his responsibilities
13 under this section; he may also recommend regulations to the governor
14 for adoption by other departments and agencies for their compliance with
15 this chapter.

16 Sec. 36.12.040. WAIVERS OF BONDS. (a) The commissioner may, with
17 the approval of the governor, waive a requirement of bonding on his
18 determination that the waiver is necessary to achieve the purposes of
19 this chapter.

20 (b) If the commissioner waives a bonding requirement, he shall
21 require that disbursements to the contractor be made in such a manner
22 that subcontractors and suppliers are paid and the project is completed
23 in orderly fashion.

24 Sec. 36.12.050. INAPPLICABILITY. This chapter does not apply to
25 any contract by a municipality or when its application would cause the
26 actual loss of federal funding toward the contract.

27 Sec. 36.12.100. DEFINITIONS. For the purposes of this chapter

28 (1) "commissioner" means the commissioner of transportation
29 and public facilities;

1 (2) "director" means the director of the state office of
2 equal employment opportunity;

3 (3) "minority" means Alaska Natives, Blacks, Hispanics,
4 Asians, and American Indians; and

5 (4) "minority business enterprise" means a business enter-
6 prise in which more than 50 per cent of the voting shares or interest in
7 the business enterprise is held by minority individuals and more than 50
8 per cent of the net profit or loss attributable to the business enter-
9 prise accrues to members of a minority.

10 * Sec. 3. AS 18.80.100 is amended by adding a new subsection to read:

11 (b) Persons who believe themselves aggrieved by discriminatory
12 conduct prohibited by AS 36.12.010 - 36.12.100 may sign and file with
13 the commission a written, verified complaint stating the information
14 otherwise required by secs. 100 - 145 of this chapter. On its determi-
15 nation that a contract or prospective contract violates a provision of
16 AS 36.12.010 - 36.12.100, the commission shall seek an injunction
17 against the execution, performance, or payment under the contract or
18 prospective contract. This provision does not deprive a citizen, tax-
19 payer, or other person of an existing right or standing to maintain an
20 action to enjoin illegal or ultra vires conduct.

21 * Sec. 4. AS 23.10 is amended by adding a new section to read:

22 ARTICLE 10. ALASKA PLAN.

23 Sec. 23.10.450. ALASKA PLAN. As a condition of the receipt of
24 funding from the state, the Alaska Plan agrees

25 (1) to place members of the protected classes in employment
26 and in apprenticeship training programs;

27 (2) to maintain records of the placements it makes under (1)
28 of this section; and

29 (3) to report annually to the legislature, within the first

1 10 days of each session, on its placements under (1) of this section.

2 * Sec. 5. Sections 2 and 3 of this Act take effect January 1, 1979 and
3 expire June 30, 1980 except that complaints filed by June 30, 1980 under
4 secs. 2 and 3 of this Act may be processed after that date. Sections 1 and 4
5 of this Act take effect immediately in accordance with AS 01.10.070(c).

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