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Original sponsors: Donley, Grussendorf,
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1 IN THE HOUSE

BY THE FINANCE COMMITTEE

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CS FOR HOUSE BILL NO. 45 (Finance) am

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to an Alaska business bidder prefer-
ence, an Alaska products preference, and to procure-
ment involving state money; and providing for an
effective date."

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

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* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that due
to the state's noncontiguous geographic location and unique climate, busi-
ness dealings with non-Alaskan firms produce administrative expenses not
commonly incurred in business dealings with resident businesses.

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(b) The purpose of the Alaska business bidder preference when the
state acts as a market participant is to reduce state administrative costs,
strengthen the state's tax and revenue base, encourage local industry,
reduce the social ills created by unemployment and an unstable economy, and
to strengthen and stabilize the state's economy.

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* Sec. 2. AS 36.15.050(e) is amended to read:

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(e) An interested party [, AS DEFINED IN AS 36.30.699,] may seek
administrative or judicial review of the award of a contract in viola-
tion of this section and may recover damages and seek other remedies
provided by law for the violation of this section.

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* Sec. 3. AS 36.15.050(g) is amended to read:

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(g) In this section,

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(1) "agricultural products" includes, but is not limited
to, dairy products, timber and lumber harvested in the state and
products manufactured in the state from timber and lumber that has

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1 been harvested in the state;

2 (2) "interested party" has the meaning given in AS 36.30.-
3 699;

4 (3) "state money" includes state grants and reimbursement
5 to municipalities, [AND] school districts, and other entities for
6 school or related construction, foundation funding for education,
7 municipal assistance, revenue sharing, and state funds for capital
8 projects.

9 * Sec. 4. AS 36.30.170(b) is repealed and reenacted to read:

10 (b) The procurement officer shall award a contract based on
11 solicited bids to the lowest responsible and responsive Alaska bidder
12 if the bid, after receiving a preference applicable to the bid under
13 AS 36.30.322 - 36.30.338, is not more than

14 (1) one percent higher than the lowest nonresident bidder's
15 and the contract is \$10,000,000 or more;

16 (2) two percent higher than the lowest nonresident bidder's
17 and the contract is more than \$500,000 and less than \$10,000,000;

18 (3) five percent higher than the lowest nonresident bid-
19 der's and the contract is more than \$100,000 and \$500,000 or less; or

20 (4) 10 percent higher than the lowest nonresident bidder's
21 and the contract is \$100,000 or less.

22 * Sec. 5. AS 36.30.170(c) is amended to read:

23 (c) Notwithstanding (b) of this section, if [IF] a bidder qual-
24 ifies under (e) [(b)] of this section as an Alaska bidder, is offering
25 services through an employment program as defined under AS 36.30.-
26 100(c), and is the lowest responsible and responsive bidder with a bid
27 that is not more than 10 percent higher than the lowest bid of a
28 nonresident, the procurement officer shall award the contract to that
29 bidder.

1 * Sec. 6. AS 36.30.170 is amended by adding a new subsection to read:

2 (e) In this section, "Alaska bidder" means a person who

3 (1) holds a current Alaska business license;

4 (2) does more than \$1,000,000 worth of annual business in
5 the state or performs more than 50 percent of the person's annual
6 business in the state, whichever is less;

7 (3) has maintained a permanent place of business in the
8 state staffed by the bidder or an employee of the bidder for a period
9 of six months immediately preceding the date of the bid;

10 (4) submits a bid for goods or services under the name that
11 appears on the person's current Alaska business license;

12 (5) is incorporated or qualified to do business under the
13 laws of the state, is a sole proprietorship and the proprietor is a
14 resident of the state, or is a partnership and all partners are resi-
15 dents of the state;

16 (6) if a joint venture, is composed entirely of persons who
17 qualify under (1) - (5) of this subsection; and

18 (7) is an Alaska domestic insurer, if the contract is
19 insurance-related and the procurement is based on solicited bids.

20 * Sec. 7. AS 36.30.250(b) is amended to read:

21 (b) In determining whether a proposal is advantageous to the
22 state, the procurement officer shall take into account, in accordance
23 with regulations of the commissioner, whether the offeror qualifies as
24 an Alaska bidder under AS 36.30.170(e) [AS 36.30.170(b)] or is offer-
25 ing the services of an employment program as defined in AS 36.30.-
26 100(c).

27 * Sec. 8. AS 36.30.850(e) is amended to read:

28 (e) AS 36.30.170 and 36.30.322 - 36.30.338 apply [APPLIES] to
29 all [INSURANCE] contracts involving state money, including state

1 grants and reimbursement to municipalities, school districts, and
2 other entities for school or related construction, foundation funding
3 for education, municipal assistance, revenue sharing, and state funds
4 for capital projects. ^S

5 * Sec. 9. AS 36.30 is amended by adding a new section to read:

6 Sec. 36.30.895. COMBINATION OF PREFERENCES. In the evaluation
7 of a bid or proposal, if a contractor qualifies as an Alaska bidder
8 under AS 36.30.170(e) and is also entitled to an Alaska products
9 preference under AS 36.30.328 for a contract, the procurement officer
10 shall decrease the bid or proposal price by the total of the two
11 applicable percentages.

12 * Sec. 10. AS 36.30.900 is amended to read:

13 Sec. 36.30.900. PREFERENCE FOR ALASKA PRODUCTS. This chapter
14 does not modify AS 36.15.010 and 36.15.020 regarding preference for
15 Alaska forest products, or AS 36.15.050 and 36.15.060₁ regarding
16 preference for Alaska agricultural and fisheries products [, EXCEPT AS
17 PROVIDED IN AS 36.30.170(b) AND (c)].

18 * Sec. 11. AS 36.30.170(d) is repealed.

19 * Sec. 12. This Act takes effect January 1 of the calendar year that
20 follows the calendar year in which the voters of the state ratify the state
21 constitutional amendment contained in the version of HJR 18 that is passed
22 by the Fifteenth Alaska State Legislature.