

## SENATE BILL NO. 129

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND  
AUDIT COMMITTEEIntroduced: 2/22/93  
Referred: STA, FIN

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the state's chief procurement officer."

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

3 \* Section 1. AS 36.30.010(a) is amended to read:

4 (a) The commissioner shall appoint to the partially exempt service the chief  
5 procurement officer of the state. The chief procurement officer must have at least five  
6 years of prior experience in public procurement, including large scale procurement of  
7 supplies, services, or professional services, and must be a person with demonstrated  
8 executive and organizational ability. The chief procurement officer may be removed  
9 by the commissioner only for cause. The term of office of the chief procurement  
10 officer is six [FOUR] years.

11 \* Sec. 2. AS 36.30.010 is amended by adding new subsections to read:

12 (c) The chief procurement officer may not delegate the duties of the chief  
13 procurement officer established under this chapter.

14 (d) While a person performs the duties of the chief procurement officer under

1 this chapter, the person may not be employed in or appointed to another position with  
2 the state.

3 (e) The annual salary of the chief procurement officer is range 26, step C, of  
4 the salary schedule established in AS 39.27.011.

5 \* Sec. 3. AS 36.30.305(a) is amended to read:

6 (a) A contract for supplies, services, professional services, or a construction  
7 contract under \$100,000, may be awarded without competitive sealed bidding or  
8 competitive sealed proposals, in accordance with regulations adopted by the  
9 commissioner. A contract may be awarded under this section only when the chief  
10 procurement officer [COMMISSIONER], or, for construction contracts under  
11 \$100,000 or procurements for the state equipment fleet, the commissioner of  
12 transportation and public facilities, determines in writing that a situation exists that  
13 makes competitive sealed bidding or competitive sealed proposals impractical or  
14 contrary to the public interest. Procurements under this section shall be made with  
15 competition that is practicable under the circumstance. Except for procurements of  
16 supplies, services, or construction that do not exceed the amount for small  
17 procurements under AS 36.30.320(a), the authority to make a determination required  
18 by this section may not be delegated.

19 \* Sec. 4. AS 36.30.310 is amended to read:

20 Sec. 36.30.310. EMERGENCY PROCUREMENTS. Procurements may be  
21 made under emergency conditions as defined in regulations adopted by the  
22 commissioner when there exists a threat to public health, welfare, or safety, when a  
23 situation exists that makes a procurement through competitive sealed bidding or  
24 competitive sealed proposals impracticable or contrary to the public interest, or to  
25 protect public or private property. An emergency procurement need not be made  
26 through competitive sealed bidding or competitive sealed proposals but shall be made  
27 with competition that is practicable under the circumstances. A written determination  
28 by the chief procurement officer of the basis for the emergency and for the selection  
29 of the particular contractor shall be included in the contract file. The written  
30 determination must include findings of fact that support the determination.

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

1           **Sec. 36.30.315. DETERMINATIONS BY CHIEF PROCUREMENT**  
2 **OFFICER; CRIMINAL PENALTY.** (a) In a determination made by the chief  
3 procurement officer under AS 36.30.300 - 36.30.310, the chief procurement officer  
4 shall independently examine the material facts of the contract and independently  
5 determine whether the contract is eligible for the procurement procedure selected for  
6 the contract.

7           (b) If the chief procurement officer knowingly makes a false statement in a  
8 determination made by the chief procurement officer under AS 36.30.300 - 36.30.310,  
9 the chief procurement officer is guilty of a class A misdemeanor.

10   \* **Sec. 6. TRANSITIONAL PROVISIONS.** (a) With respect to the person holding the  
11 position of chief procurement officer on the effective date of this Act, the six-year term of the  
12 chief procurement officer under AS 36.30.010(a), as amended by sec. 1 of this Act, shall  
13 include the time the person holds the position before the effective date of this Act.

14           (b) AS 36.30.010(c) - (e), added by sec. 2 of this Act, apply to the chief procurement  
15 officer on and after the effective date of this Act.

16           (c) AS 36.30.305 and 36.30.310, amended by secs. 3 and 4 of this Act, apply to a  
17 procurement that begins on or after the effective date of this Act.

18           (d) AS 36.30.315, enacted by sec. 5 of this Act, applies to a determination made on  
19 or after the effective date of this Act.