

## SENATE BILL NO. 212

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST OF THE SENATE  
ECONOMIC TASK FORCEIntroduced: 5/7/93  
Referred: L&C, FIN

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to publications produced by state agencies and to the  
2 procurement of property, property interests, and services by state agencies."

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

4 \* Section 1. FINDINGS, PURPOSE, AND INTENT. (a) The legislature finds that  
5 (1) the state needs to develop and maintain a strong, stable, and prosperous  
6 economy based on private investment;  
7 (2) the existence of a strong and healthy free enterprise system is directly  
8 related to the well-being and competitive strength of Alaskan businesses and to the opportunity  
9 for Alaskan businesses to have free entry into the business market and to grow and expand;  
10 (3) the use of products manufactured, grown, or produced in Alaska  
11 strengthens, stabilizes, and diversifies Alaska's economy;  
12 (4) when governmental agencies purchase and use out-of-state products and  
13 services, they reduce job-creating investments and limit the growth of the economy of Alaska;  
14 (5) when bid documents for public contracts do not specify the use of available

1 Alaskan products, comparable out-of-state goods are usually purchased instead, and these  
2 purchases result in a loss of revenue in the state and weaken Alaska's economic base;

3 (6) contracts are frequently awarded to out-of-state firms, even though Alaskan  
4 suppliers, manufacturers, and providers of services are more accessible and responsive to the  
5 needs of Alaska's business community than their out-of-state counterparts;

6 (7) there is a need for Alaska to examine its purchasing practices in order to  
7 ensure that state agencies support Alaskan businesses by making every reasonable effort to  
8 identify available Alaskan goods and services and to foster bidding by local businesses and  
9 labor forces;

10 (8) state agencies should look outside Alaska for goods and services only if  
11 they have provided notice of the procurement in Alaska.

12 (b) The legislature declares that the purpose of this Act is to foster a procurement  
13 process where Alaskan businesses obtain a fair proportion of Alaska's total procurement  
14 contracts by providing Alaskan businesses with a fair, equitable, and competitive bid process.

15 (c) It is the intent of the legislature that

16 (1) except as prohibited under AS 36.30.320(d), a state agency shall, when  
17 practicable and economically feasible, design procurements in a way that fosters participation  
18 by Alaska bidders or offerors;

19 (2) except as prohibited under AS 36.30.320(d), and unless it is anticipated that  
20 two or more Alaska bidders or offerors would be capable of performing the procurement, an  
21 agency that is proposing a procurement shall, when practicable and economically feasible,  
22 divide or otherwise structure the procurement so that it can be performed by Alaska bidders  
23 or offerors, if the proposed procurement is too large to be performed by Alaska bidders or  
24 offerors, and if the procurement officer determines that Alaska bidders or offerors generally  
25 would be capable of performing the procurement if the procurement were reduced in size or  
26 otherwise restructured; in this paragraph, "Alaska bidders or offerors" means persons who  
27 qualify as Alaska bidders under AS 36.30.170(b).

28 \* Sec. 2. AS 36.30.130(a) is amended to read:

29 (a) The procurement officer shall give adequate public notice of the invitation  
30 to bid at least 21 days before the date for the opening of bids. If a determination is  
31 made in writing that a shorter notice period is necessary for a particular bid, the

1 21-day period may be shortened. The determination shall be made by the chief  
2 procurement officer for bids for supplies, services, or professional services. The  
3 determination shall be made by the commissioner of transportation and public facilities  
4 for bids for construction or acquisition of property for the state equipment fleet.  
5 Notice shall be published in the Alaska Administrative Journal. The time and manner  
6 of notice must be in accordance with regulations adopted by the commissioner of  
7 administration. When practicable, notice may include

8 (1) publication in a newspaper calculated to reach prospective bidders  
9 located in the state;

10 (2) notices posted in public places within the area where the work is  
11 to be performed or the material furnished; and

12 (3) notices mailed to all active prospective contractors on the  
13 appropriate list maintained under AS 36.30.050

14 (A) if the contractors are located in the state;

15 (B) upon request, if the contractors are not located in the  
16 state.

17 \* Sec. 3. AS 36.30.540 is amended to read:

18 Sec. 36.30.540. REPORT TO LEGISLATURE. On or before January 15 of  
19 each year. [BEGINNING WITH DECEMBER 1, 1989,] the commissioner shall  
20 [BIENNIALY] report to the legislature concerning procurements by agencies. The  
21 report must include

22 (1) the records maintained by the commissioner under AS 36.30.510  
23 and the records maintained under AS 36.30.520(a) for the previous [TWO] fiscal year  
24 [YEARS];

25 (2) recommendations for changes in this chapter or other laws based  
26 on implementation of this chapter in the previous [TWO] fiscal year [YEARS];

27 (3) a description of any matters that involved litigation concerning this  
28 chapter in the previous [TWO] fiscal year [YEARS];

29 (4) a list of procurements made under this chapter from out-of-state  
30 sources during the previous [TWO] fiscal year [YEARS] together with the total  
31 number of procurement contracts entered into during that period with out-of-state

1 contractors and the total value of these contracts; this paragraph does not apply to  
2 procurements made under AS 36.30.320; and

3 (5) a list of procurements made under this chapter from state sources  
4 during the previous [TWO] fiscal year [YEARS] together with the total number of  
5 procurement contracts entered into during that period with state contractors and the  
6 total value of these contracts; this paragraph does not apply to procurements made  
7 under AS 36.30.320;

8 (6) the number of bidders and offerors that bid on or made  
9 proposals for procurements under this chapter, the number of these bidders and  
10 offerors that were located in the state, and the number of these bidders and  
11 offerors that were located outside the state; this paragraph does not apply to  
12 procurements made under AS 36.30.320.

13 \* Sec. 4. AS 36.30.540 is amended by adding a new subsection to read:

14 (b) A state agency that is subject to AS 36.30.895 and that contracts for  
15 investment and brokerage services shall submit to the legislature on or before  
16 January 15 of each year a report covering the preceding fiscal year and reporting on  
17 the state agency's progress in implementing AS 36.30.895.

18 \* Sec. 5. AS 36.30.850(b)(13) is amended to read:

19 (13) purchases of income-producing assets for the state treasury or a  
20 public corporation of the state, except as provided by AS 36.30.540(b) and  
21 36.30.895;

22 \* Sec. 6. AS 36.30.850(b)(15) is amended to read:

23 (15) a contract that is a delegation, in whole or in part, of investment  
24 powers held by the commissioner of revenue under AS 14.40.400, AS 14.42.200,  
25 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14. except as provided  
26 by AS 36.30.540(b) and 36.30.895;

27 \* Sec. 7. AS 36.30.850(b)(16) is amended to read:

28 (16) a contract that is a delegation, in whole or in part, of investment  
29 powers or fiduciary duties of the Board of Trustees of the Alaska Permanent Fund  
30 Corporation under AS 37.13, except as provided by AS 36.30.540(b) and 36.30.895;

31 \* Sec. 8. AS 36.30.850(b) is amended by adding a new paragraph to read:

1 (30) contracts to be performed in an area outside of the country and  
2 requiring knowledge of the customs, procedures, rules, or laws of the area.

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

4 Sec. 36.30.895. STATE POLICY FOR PROCUREMENT OF INVESTMENT  
5 SERVICES. It is the policy of the state that state agencies that procure investment and  
6 brokerage services increase the utilization of brokerage and investment services  
7 provided by persons located in the state. In this section, "state agency" includes the  
8 University of Alaska, the Alaska Railroad Corporation, the Alaska Housing Finance  
9 Corporation, the Alaska Aerospace Development Corporation, the Alaska State Pension  
10 Investment Board, and the Alaska permanent fund established under AS 37.13.010, but  
11 does not include the state trustees or federal trustees under AS 37.14.450.

12 \* Sec. 10. AS 44.99.200 is repealed and reenacted to read:

13 Sec. 44.99.200. PRODUCTION OF PUBLICATIONS. The publications of a  
14 state agency shall be produced at a private sector facility located in the state when  
15 practicable. The Department of Administration shall establish standards for the  
16 production of publications by state agencies, except that the Board of Regents of the  
17 University of Alaska shall establish the standards for the university. The standards  
18 shall be designed to promote simplicity, low cost, and consistency.

19 \* Sec. 11. AS 44.99.210 is amended to read:

20 Sec. 44.99.210. DISCLOSURES ON PUBLICATION. If [A PUBLICATION  
21 OF A STATE AGENCY IS EXEMPTED UNDER AS 44.99.200(a) FROM BEING  
22 PRODUCED AT A STATE-OPERATED FACILITY AND IF] the actual annual costs  
23 for a [THE] publication of a state agency that are paid from the general fund exceed  
24 \$1,500, the publication must include a statement that gives the name of the agency  
25 releasing the publication, the purpose of the publication, the cost for each copy of the  
26 publication, and the city and state where the printing was done. The statement must  
27 read: "This publication was released by . . . (name of state agency) . . . , produced at  
28 a cost of \$ . . . . per copy to . . . (statement of purpose) . . . , and printed in . . . .  
29 . (city and state where printed)." If the publication is required by law, the statement  
30 must also include: "This publication is required by . . . (appropriate citation to Alaska  
31 law)." The statement may include, if applicable, a declaration of the revenue raised

1 by the sale of the publication or from the purchase of advertising in the publication.  
2 The statement shall be printed in one conspicuous place in the body of the publication  
3 in a type size that is not smaller than eight points and shall be placed in a box  
4 composed of at least one point rule. In this section, "cost for each copy" means the  
5 figure that results after dividing the total contract cost of producing the publication by  
6 the number of copies produced. This section does not apply to a publication that is  
7 intended primarily for foreign or other out-of-state use, or to a program for a public  
8 ceremony of a state agency.

9 \* **Sec. 12.** AS 44.99.230 is repealed.

10 \* **Sec. 13. INNOVATIVE CONSTRUCTION PROCUREMENT METHODS PILOT**  
11 **PROGRAM.** (a) Within six months after the effective date of this Act, the commissioner of  
12 transportation and public facilities shall begin a two-year pilot program for the use of  
13 innovative methods for the procurement of construction services by using bonuses to replace  
14 the preferences required under AS 36.30.

15 (b) Notwithstanding the provisions of AS 36.30, if the commissioner determines in  
16 writing that using innovative construction procurement methods for the procurement of  
17 construction contracts would be in the best interests of the state, the commissioner may, by  
18 regulation, adopt procedures different than those provided under AS 36.30 as necessary to use  
19 bonuses instead of preferences in the procurement of construction contracts. The  
20 determination must find that the innovative methods are not contrary to the intent and  
21 purposes of AS 36.30, demonstrate that the innovative methods are in the best interests of the  
22 state, and describe how the innovative methods modify the procurement methods and  
23 procedures of AS 36.30.

24 (c) Within 15 months after the pilot program begins, the commissioner shall report  
25 to the legislature on the construction contracts awarded during the first year of the pilot  
26 program. Within 27 months after the pilot program begins, the commissioner shall report to  
27 the legislature on the construction contracts awarded during the second year of the pilot  
28 program.

29 (d) The legislature may review the pilot program at any time during the program and  
30 may make the program permanent or broaden the scope of the innovative procurement  
31 program.

1 (e) In this section,  
2 (1) "best interests of the state" means that the proposed action would provide  
3 (A) an economic benefit to the private businesses and citizens of the  
4 state;  
5 (B) an economic benefit to state government; and  
6 (C) greater administrative efficiencies than existing procedures provide;  
7 (2) "commissioner" means the commissioner of transportation and public  
8 facilities.

9 \* Sec. 14. AS 36.30.540(a)(6), enacted by sec. 3 of this Act, applies to reports due after  
10 the effective date of this Act.

11 \* Sec. 15. IMPLEMENTATION REPORTS. The first report under AS 36.30.540(b),  
12 enacted by sec. 4 of this Act, is due January 15, 1995, and must cover the activities of the  
13 reporting state agency since the effective date of this Act.