

HOUSE CS FOR CS FOR SENATE BILL NO. 212(L&C) am H**IN THE LEGISLATURE OF THE STATE OF ALASKA****EIGHTEENTH LEGISLATURE - SECOND SESSION****BY THE HOUSE LABOR AND COMMERCE COMMITTEE****Amended: 4/27/94****Offered: 3/23/94****Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST OF THE SENATE
ECONOMIC TASK FORCE****A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the giving of procurement notices; changing the content of
2 the required procurement reports to the legislature by the commissioner of
3 administration; relating to publications produced by state agencies; establishing an
4 innovative construction procurement methods pilot program; and establishing
5 legislative findings, a legislative purpose, and legislative intent for state
6 procurement; and providing for an effective date."

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

8 * **Section 1. FINDINGS, PURPOSE, AND INTENT.** (a) The legislature finds that
9 (1) the state needs to develop and maintain a strong, stable, and prosperous
10 economy based on private investment;
11 (2) the existence of a strong and healthy free enterprise system is directly
12 related to the well-being and competitive strength of Alaskan businesses and to the opportunity

1 for Alaskan businesses to have free entry into the business market and to grow and expand;

2 (3) the use of products manufactured, grown, or produced in Alaska
3 strengthens, stabilizes, and diversifies Alaska's economy;

4 (4) when governmental agencies purchase and use out-of-state products and
5 services, they reduce job-creating investments and limit the growth of the economy of Alaska;

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

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

13 (7) state agencies should look outside Alaska for goods and services only if
14 they have provided notice of the procurement in Alaska.

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

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

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

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

31 (3) state agencies that procure investment and brokerage services increase the

1 utilization of brokerage and investment services provided by persons located in the state; in
2 this paragraph, "state agency" includes the University of Alaska, the Alaska Railroad
3 Corporation, the Alaska Housing Finance Corporation, the Alaska Aerospace Development
4 Corporation, the Alaska State Pension Investment Board, and the Alaska permanent fund
5 established under AS 37.13.010, but does not include the state trustees or federal trustees
6 under AS 37.14.450.

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

8 (a) The procurement officer shall give adequate public notice of the invitation
9 to bid at least 21 days before the date for the opening of bids. If a determination is
10 made in writing that a shorter notice period is necessary for a particular bid, the
11 21-day period may be shortened. The determination shall be made by the chief
12 procurement officer for bids for supplies, services, or professional services. The
13 determination shall be made by the commissioner of transportation and public facilities
14 for bids for construction or acquisition of property for the state equipment fleet.
15 Notice shall be published in the Alaska Administrative Journal. The time and manner
16 of notice must be in accordance with regulations adopted by the commissioner of
17 administration. When practicable, notice may include

18 (1) publication in a newspaper calculated to reach prospective bidders
19 located in the state:

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

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

24 (A) if the contractors are located in the state:

25 (B) upon request, if the contractors are not located in the
26 state.

27 * Sec. 3. AS 36.30.130(a) is repealed and reenacted to read:

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

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

7 (1) publication in a newspaper calculated to reach prospective bidders;

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

10 (3) notices mailed to all active prospective contractors on the
11 appropriate list maintained under AS 36.30.050.

12 * Sec. 4. AS 36.30.540 is amended to read:

13 Sec. 36.30.540. REPORT TO LEGISLATURE. The [BEGINNING WITH
14 DECEMBER 1, 1989, THE] commissioner shall biennially report to the legislature
15 concerning procurements by agencies. The report must include

16 (1) the records maintained by the commissioner under AS 36.30.510
17 and the records maintained under as 36.30.520(a) for the previous two fiscal years;

18 (2) recommendations for changes in this chapter or other laws based
19 on implementation of this chapter in the previous two fiscal years;

20 (3) a description of any matters that involved litigation concerning this
21 chapter in the previous two fiscal years;

22 (4) a list of procurements made under this chapter from out-of-state
23 sources during the previous two fiscal years together with the total number of
24 procurement contracts entered into during that period with out-of-state contractors and
25 the total value of these contracts; this paragraph does not apply to procurements made
26 under AS 36.30.320; and

27 (5) a list of procurements made under this chapter from state sources
28 during the previous two fiscal years together with the total number of procurement
29 contracts entered into during that period with state contractors and the total value of
30 these contracts; this paragraph does not apply to procurements made under
31 AS 36.30.320;

1 means the figure that results after dividing the total contract cost of producing the
2 publication by the number of copies produced. This section does not apply to a
3 publication that is intended primarily for foreign or other out-of-state use, [OR] to a
4 program for a public ceremony of a state agency, or to materials used by a state
5 agency to develop a market for the agency's services or products.

6 * Sec. 7. AS 44.99.230 is repealed.

7 * Sec. 8. INNOVATIVE CONSTRUCTION PROCUREMENT METHODS PILOT
8 PROGRAM. (a) Within six months after the effective date of this section, the commissioner
9 of transportation and public facilities shall begin a two-year pilot program for the use of
10 innovative methods for the procurement of construction services by using bonuses to replace
11 the preferences required under AS 36.30. The bonuses are to be offered to achieve the
12 purposes of the preferences in AS 36.30 and shall be defined by regulations adopted by the
13 commissioner.

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

23 (c) Within 15 months after the pilot program begins, the commissioner shall report
24 to the legislature on the construction contracts awarded during the first year of the pilot
25 program. Within 27 months after the pilot program begins, the commissioner shall report to
26 the legislature on the construction contracts awarded during the second year of the pilot
27 program. In a report under this subsection, the information must include for each contract
28 awarded during the period covered by the report

29 (1) the geographical region where the construction is to be performed; and

30 (2) whether the contractor is classified as a minority contractor.

31 (d) The legislature may review the pilot program at any time during the program and

1 may make the program permanent or broaden the scope of the innovative procurement
2 program.

3 (e) In this section,

4 (1) "best interests of the state" means that the proposed action would provide
5 (A) an economic benefit to the private businesses and citizens of the
6 state;

7 (B) an economic benefit to state government; and

8 (C) greater administrative efficiencies than existing procedures provide;

9 (2) "commissioner" means the commissioner of transportation and public
10 facilities.

11 * Sec. 9. APPLICABILITY. AS 36.30.540(6), enacted by sec. 4 of this Act, applies to
12 reports due after the effective date of sec. 4 of this Act.

13 * Sec. 10. Section 3 of this Act takes effect on the date that is four years after the effective
14 date of sec. 2 of this Act.