

"An Act relating to selection of architects, engineers and surveyors for state projects; effective date."

COMMITTEE REPORT

3/12/76

HOUSE

Mr. Speaker:

Date March 24 1976

The Committee on FINANCE has had HB 646

a second time.
under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR HB 646 AND THAT

CS FOR HB 13 DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>Cook</u>	<u>Malone</u>	_____
<u>Hansen</u>	<u>Malone</u>	_____
<u>Naughton</u>		_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Malone Chairman

Original Sponsor: Rules Committee by
request of the Governor

Offered: 3/11/76
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 646 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to selection of architects, engineers,
7 and surveyors for state projects; and providing for
8 an effective date."

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

10 * Section 1. AS 35 is amended by adding a new chapter to read:

11 CHAPTER 30. STATE SELECTION OF ARCHITECTS,
12 ENGINEERS, AND SURVEYORS.

13 Sec. 35.30.010. SELECTION REVIEW BOARD. (a) There is in the
14 Department of Public Works an Architects, Engineers, and Land Surveyors
15 Selection Review Board.

16 (b) The board is composed of seven members, appointed by the
17 governor and subject to confirmation by the legislature in joint session.
18 Members shall be appointed as follows:

19 (1) two members must be registered architects appointed by
20 the governor from a list of at least four names submitted by the Alaska
21 chapter of the American Institute of Architects;

22 (2) two members must be registered engineers appointed by the
23 governor from a list of at least four names submitted by the Alaska
24 chapter of the National Society of Professional Engineers;

25 (3) two members shall be appointed by the governor from the
26 general public, neither of whom may be an architect or an engineer or a
27 land surveyor; the public members must possess, due to their education,
28 experience, or vocation, an understanding of and sensitivity to project
29 design or construction;

1 (4) one member must be a land surveyor appointed by the
2 governor from names submitted by the Alaska chapter of the American
3 Society of Professional Land Surveyors.

4 (c) The term of office of board members is two years. Initial
5 appointments within each classification in (b)(1)-(3) of this section
6 shall specify one-year and two-year terms so as to assure the staggering
7 of terms within each classification. If a vacancy occurs on the board,
8 the governor shall appoint a person qualified under the applicable
9 provision in (b) of this section to serve the unexpired term.

10 (d) No member of the board or of a firm or joint venture with
11 which he is associated, or in which he has a financial interest, may be
12 barred, because of his board membership, from contracting to serve as an
13 architect, engineer, or land surveyor for a project or from otherwise
14 participating as a consultant or employee on a project.

15 (e) No member of the board may vote on a grievance matter brought
16 by or against him or by or against a firm or joint venture with which he
17 is associated or in which he has a financial interest.

18 Sec. 35.30.020. ORGANIZATION AND MEETINGS OF BOARD. At the first
19 meeting of the members of the board, the board shall elect a chairman.
20 The board shall also elect other officers it considers necessary for the
21 conduct of its affairs. It shall adopt rules governing its operations
22 and the conduct of its meetings. The rules shall provide for the term
23 of the chairman and other officers if any. The board shall meet at
24 least once every six months. In addition, the board may take official
25 action by mail votes or votes during conference telephone calls on
26 reasonable notice to all members. Four members constitute a quorum.

27 Sec. 35.30.030. DUTIES AND POWERS OF THE BOARD. The board shall

28 (1) adopt regulations under the Administrative Procedure Act
29 (AS 44.62) that it finds appropriate to supplement the procedure

1 established by this chapter for architect, engineer, and land surveyor
2 selection;

3 (2) review all selection procedures on a periodic basis;

4 (3) review any grievance related to the selection process
5 and recommend appropriate action to the governor; the board's recom-
6 mendations on grievances are public information;

7 (4) prepare an annual report on architect, engineer, and land
8 surveyor selection and selection grievances.

9 Sec. 35.30.040. COMPENSATION, PER DIEM, AND EXPENSES. Members of
10 the board are entitled to per diem, reimbursement for travel and other
11 expenses authorized by law for other boards.

12 Sec. 35.30.050. REQUIREMENTS FOR PROFESSIONAL SERVICES. (a) Each
13 agency shall make public on at least an annual basis its known present
14 and future construction and planning programs, and its anticipated
15 requirements for professional services for at least the following 12-
16 month period.

17 (b) When professional services are required for a specific pro-
18 ject, the chief executive officer of the contracting agency shall submit
19 a written notice to the board. The notice shall include a description
20 of the proposed project, its location, the scope of services required,
21 the proposed completion date, and a description of any special require-
22 ments or unique features of the proposed project.

23 Sec. 35.30.060. QUALIFICATION OF ARCHITECTURAL, ENGINEERING, AND
24 SURVEYING FIRMS; SELECTION COMMITTEES. (a) The Department of Public
25 Works shall encourage firms engaged in the lawful practice of archi-
26 tecture, engineering, or land surveying to submit at least annually a
27 statement of qualifications. The department shall maintain an up-to-
28 date listing of qualified firms and shall make it available to selection
29 committees formed under this section. The department shall maintain a

1 complete file of all qualified firms who have submitted a statement
2 within the previous two years.

3 (b) When an agency of the state expects to enter into a contract
4 for architectural, engineering, or land surveying services, the chief
5 executive officer of that contracting agency shall appoint two persons
6 from that agency to a three-member selection committee. The chief
7 executive officer of the user agency for the proposed project shall
8 appoint a person from the user agency as the third member of the com-
9 mittee. If it is anticipated that there will be more than one user
10 agency, then the third committee member shall be appointed by the
11 commissioner of administration. Committee members appointed from the
12 Department of Public Works must be employees in the classified service
13 under AS 39.25. The members shall elect a chairman.

14 (c) The committee, upon its appointment, shall make a public
15 announcement of the proposed project which includes a description of the
16 proposed project, its location, the scope of service required, the
17 proposed completion date, and a description of any special requirements
18 or unique features. The announcement shall invite firms to submit to
19 the committee an application to perform services for the project which
20 may include supplemental descriptions of their firms and statements of
21 qualifications with supporting data as it relates to the proposed pro-
22 ject.

23 (d) The committee shall examine all applications from interested
24 firms and certify those firms qualified to perform the services for the
25 project under consideration. Among the factors to be considered in
26 making this finding are the capability, adequacy of personnel, past
27 record, and experience of the firm.

28 (e) In evaluating the firms certified under (d) of this section,
29 the committee shall apply the following criteria, along with other

1 criteria established by administrative regulations of the department if
2 any:

3 (1) specialized experience and design and technical compe-
4 tence of the firm, including a joint venture or association, regarding
5 the type of service required;

6 (2) capability of the firm to perform the work, including any
7 specialized services, within the time limitations;

8 (3) past record of performance on contracts with government
9 agencies and private industry with respect to such factors as control of
10 costs, quality of work, and ability to meet schedules;

11 (4) proximity to and familiarity with the area in which the
12 project is located; and

13 (5) the desirability of selecting the most highly qualified
14 firm; however, the volume of work previously awarded to the firm by the
15 state shall also be considered, with the object of effecting an equi-
16 table distribution of contracts among qualified firms and of assuring
17 that the interest of the public in having available a substantial number
18 of qualified firms is protected.

19 (f) After making this review and technical evaluation, the com-
20 mittee shall hold discussions with not less than three of the most
21 highly qualified firms regarding their capability and methods of ap-
22 proach for furnishing the required services. Professional compensation
23 may not be considered in these discussions.

24 (g) The committee shall prepare a public report for submission to
25 the board, recommending, in order of highest qualification, no less than
26 three firms that are considered most highly qualified to perform the
27 required services. This report shall include a statement of the extent
28 of the evaluation and review and the considerations upon which the
29 recommendations were based. If the committee has found under (d) of

1 this section that less than three firms are qualified to perform the
2 services, it shall include in its report the reasons for qualifying less
3 than three. The report shall be made within 45 days after the committee
4 is appointed.

5 Sec. 35.30.070. NEGOTIATIONS. (a) The contracting agency shall
6 conduct negotiations on scope of work and professional compensation
7 initially with the highest ranked firm. If a mutually satisfactory
8 contract cannot be negotiated with that firm, the agency head shall
9 formally terminate the negotiations and notify the firm. Negotiations
10 then shall be initiated with the second-ranked firm and this procedure
11 shall be continued until a mutually satisfactory contract has been
12 negotiated. If negotiations fail with the listed firms, the names of
13 additional firms shall be selected and ranked by the committee and
14 negotiations shall continue in the manner described in this subsection.

15 (b) Upon successfully negotiating a contract with a firm, the
16 agency shall promptly report to the board the results of its negotia-
17 tions, with documentation of the factors affecting any unsuccessful
18 negotiations with higher ranked firms.

19 Sec. 35.30.080. PUBLIC REPORTS. The board shall make a public
20 announcement of the firm selected for each proposed project and shall
21 provide prompt notification to each recommended firm. The board shall
22 issue an annual report summarizing the projects processed during the
23 year and the firms selected to design them. The annual report also
24 shall list each grievance received, give the board's recommendation on
25 the grievance, and state what action was taken in response to the
26 board's recommendation.

27 Sec. 35.30.090. PROHIBITION AGAINST CONTINGENT FEES; MISDEMEANOR.
28 (a) Each contract entered into by an agency for professional services
29 shall contain a prohibition against contingent fees as follows: "The

1 contractor providing professional services warrants that he has not
2 employed or retained any person whose fee, commission, percentage, gift,
3 or any other consideration is contingent upon or results from the
4 award or making of this agreement." For a violation of this provision,
5 the agency may terminate the agreement without liability and, in its
6 discretion, may deduct from the contract price, or otherwise recover,
7 the full amount of the fee, commission, percentage, gift or considera-
8 tion.

9 (b) A public official or other person who offers, agrees, or
10 contracts to solicit or secure a state agency contract for professional
11 services for any other person for a fee, commission, percentage, gift or
12 other consideration contingent upon or resulting from, the award or the
13 making of a contract for professional services, is guilty of a misde-
14 meanor.

15 (c) An architect, engineer, land surveyor, or other person who
16 offers or pays or otherwise furnishes any consideration prohibited in
17 (b) of this section is guilty of a misdemeanor.

18 Sec. 35.30.100. OFFICE, STAFF, AND RECORDS. The Department of
19 Public Works shall provide the board a suitable place to hold meetings
20 and keep records. The commissioner of public works shall designate an
21 employee of the department to serve as executive secretary to the
22 board. He shall devote the time necessary to promote the expeditious
23 conduct of the board's duties and responsibilities.

24 Sec. 35.30.110. EXEMPTIONS. (a) Contracts where compensation to
25 be paid under the contract is less than \$20,000 are exempt from the
26 requirements of this chapter.

27 (b) The board may, on a case-by-case basis, exempt emergency
28 projects from the selection process. A brief statement of the emergency
29 that caused the exemption of any project shall be included in the

1 board's annual report made under sec. 80 of this chapter.

2 Sec. 35.30.120. DEFINITIONS. In this chapter, unless the context
3 requires otherwise,

4 (1) "agency" means all officials, departments, and agencies
5 of the state government, including the University of Alaska and the
6 Alaska State Housing Authority;

7 (2) "architect, engineer, or land surveyor" means an archi-
8 tect, engineer, or land surveyor registered to practice under AS 08.48;

9 (3) "board" means the Architects, Engineers, and Land Sur-
10 veyors Selection Review Board;

11 (4) "contracting agency" means the agency administering a
12 contract for architectural, engineering, or land surveying services;

13 (5) "committee" means a selection committee established under
14 sec. 60 of this chapter;

15 (6) "firm" means an architect, engineer, or land surveyor, or
16 a partnership, association, or corporation comprised primarily of
17 architects or engineers or land surveyors registered to practice under
18 AS 08.48;

19 (7) "professional service" means architectural, engineering,
20 or land surveying service;

21 (8) "project" means a construction project using professional
22 services associated with design and construction, alteration, or repair
23 of real property, as well as services incidental to it, including but
24 not limited to studies, investigations, surveys, evaluations, land
25 appraisals, consultations, planning, programming, conceptual designs,
26 plans and specifications, cost estimates, inspections, shop drawing
27 reviews, sample recommendations, preparation of operating and mainte-
28 nance manuals, and other related service;

29 (9) "user agency" means the agency which will occupy or use

1 the product of the professional service.

2 * Sec. 2. Nothing in this Act affects the validity or effect of any
3 contract in existence on January 1, 1977.

4 * Sec. 3. AS 35.30.030(2), (3), and (4), 35.30.050, and 35.30.060 -
5 35.30.080, enacted in sec. 1 of this Act, take effect January 1, 1977. All
6 other provisions of this Act take effect immediately in accordance with
7 AS 01.10.070(c).

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Original Sponsor: Rules Committee by
request of the Governor

Offered: 3/9/76
Referred: Finance

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 646

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to selection of architects, engineers,
7 and surveyors for state projects; and providing for
8 an effective date."

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14 Department of Public Works an Architects, Engineers, and Land Surveyors
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16 (b) The board is composed of seven members, appointed by the
17 governor and subject to confirmation by the legislature in joint session.
18 Members shall be appointed as follows:

19 (1) two members must be registered architects appointed by
20 the governor from a list of at least four names submitted by the Alaska
21 chapter of the American Institute of Architects;

22 (2) two members must be registered engineers appointed by the
23 governor from a list of at least four names submitted by the Alaska
24 chapter of the National Society of Professional Engineers;

25 (3) two members shall be appointed by the governor from the
26 general public, neither of whom may be an architect or an engineer or a
27 land surveyor; the public members must possess, due to their education,
28 experience, or vocation, an understanding of and sensitivity to project
29 design or construction;

1 (4) One member must be a land surveyor appointed by the
2 governor from names submitted by the Alaska chapter of the American
3 Society of Professional Land Surveyors.

4 (c) The term of office of board members is two years. Initial
5 appointments within each classification in (b)(1)-(3) of this section
6 shall specify one-year and two-year terms so as to assure the staggering
7 of terms within each classification. If a vacancy occurs on the board,
8 the governor shall appoint a person qualified under the applicable
9 provision in (b) of this section to serve the unexpired term.

10 (d) No member of the board or of a firm or joint venture with
11 which he is associated, or in which he has a financial interest, may be
12 barred, because of his board membership, from contracting to serve as an
13 architect, engineer, or land surveyor for a project or from otherwise
14 participating as a consultant or employee on a project.

15 (e) No member of the board may vote on a grievance matter brought
16 by or against him or by or against a firm or joint venture with which he
17 is associated or in which he has a financial interest.

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25 action by mail votes or votes during conference telephone calls on
26 reasonable notice to all members. Four members constitute a quorum.

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28 (1) adopt regulations under the Administrative Procedure Act
29 (AS 44.62) that it finds appropriate to supplement the procedure

1 established by this chapter for architect, engineer, and land surveyor
2 selection;

3 (2) review all selection procedures on a periodic basis;

4 (3) review any grievance related to the selection process and
5 recommend appropriate action to the governor; the board's recommendations
6 on grievances are public information;

7 (4) prepare an annual report on architect, engineer, and land
8 surveyor selection and selection grievances.

9 Sec. 35.30.040. REQUIREMENTS FOR PROFESSIONAL SERVICES. (a) Each
10 agency shall make public on at least an annual basis its known present
11 and future construction and planning programs, and its anticipated
12 requirements for professional services for at least the following 12-
13 month period.

14 (b) When professional services are required for a specific project,
15 the chief executive officer of the contracting agency shall submit a
16 written notice to the board. The notice shall include a description of
17 the proposed project, its location, the scope of services required, the
18 proposed completion date, and a description of any special requirements
19 or unique features of the proposed project.

20 Sec. 35.30.050. QUALIFICATION OF ARCHITECTURAL, ENGINEERING, AND
21 SURVEYING FIRMS; SELECTION COMMITTEES. (a) The Department of Public
22 Works shall encourage firms engaged in the lawful practice of archi-
23 tecture, engineering, or land surveying to submit at least annually a
24 statement of qualifications. The department shall maintain an up-to-
25 date listing of qualified firms and shall make it available to selection
26 committees formed under this section. The department shall maintain a
27 complete file of all qualified firms who have submitted a statement
28 within the previous two years.

29 (b) When an agency of the state expects to enter into a contract

1 for architectural, engineering, or land surveying services, the chief
2 executive officer of that contracting agency shall appoint two persons
3 from that agency to a three-member selection committee. The chief
4 executive officer of the user agency for the proposed project shall
5 appoint a person from the user agency as the third member of the com-
6 mittee. If it is anticipated that there will be more than one user
7 agency, then the third committee member shall be appointed by the
8 commissioner of administration. Committee members appointed from the
9 Department of Public Works must be employees in the classified service
10 under AS 39.25. The members shall elect a chairman.

11 (c) The committee, upon its appointment, shall make a public
12 announcement of the proposed project which includes a description of the
13 proposed project, its location, the scope of service required, the
14 proposed completion date, and a description of any special requirements
15 or unique features. The announcement shall invite firms to submit to
16 the committee an application to perform services for the project which
17 may include supplemental descriptions of their firms and statements of
18 qualifications with supporting data as it relates to the proposed pro-
19 ject.

20 (d) The committee shall examine all applications from interested
21 firms and certify those firms qualified to perform the services for the
22 project under consideration. Among the factors to be considered in
23 making this finding are the capability, adequacy of personnel, past
24 record, and experience of the firm.

25 (e) In evaluating the firms certified under (d) of this section,
26 the committee shall apply the following criteria, along with other
27 criteria established by administrative regulations of the department if
28 any:

- 29 (1) specialized experience and design and technical compe-

1 tence of the firm, including a joint venture or association, regarding
2 the type of service required;

3 (2) capability of the firm to perform the work, including any
4 specialized services, within the time limitations;

5 (3) past record of performance on contracts with government
6 agencies and private industry with respect to such factors as control of
7 costs, quality of work, and ability to meet schedules;

8 (4) proximity to and familiarity with the area in which the
9 project is located; and

10 (5) the desirability of selecting the most highly qualified
11 firm; however, the volume of work previously awarded to the firm by the
12 state shall also be considered, with the object of effecting an equi-
13 table distribution of contracts among qualified firms and of assuring
14 that the interest of the public in having available a substantial number
15 of qualified firms is protected.

16 (f) After making this review and technical evaluation, the com-
17 mittee shall hold discussions with not less than three of the most
18 highly qualified firms regarding their capability and methods of approach
19 for furnishing the required services. Professional compensation may not
20 be considered in these discussions.

21 (g) The committee shall prepare a public report for submission to
22 the board, recommending, in order of highest qualification, no less than
23 three firms that are considered most highly qualified to perform the
24 required services. This report shall include a statement of the extent
25 of the evaluation and review and the considerations upon which the
26 recommendations were based. If the committee has found under (d) of
27 this section that less than three firms are qualified to perform the
28 services, it shall include in its report the reasons for qualifying less
29 than three. The report shall be made within 45 days after the committee

1 is appointed.

2 Sec. 35.30.060. NEGOTIATIONS. (a) The contracting agency shall
3 conduct negotiations on scope of work and professional compensation
4 initially with the highest ranked firm. If a mutually satisfactory
5 contract cannot be negotiated with that firm, the agency head shall
6 formally terminate the negotiations and notify the firm. Negotiations
7 then shall be initiated with the second-ranked firm and this procedure
8 shall be continued until a mutually satisfactory contract has been
9 negotiated. If negotiations fail with the listed firms, the names of
10 additional firms shall be selected and ranked by the committee and
11 negotiations shall continue in the manner described in this subsection.

12 (b) Upon successfully negotiating a contract with a firm, the
13 agency shall promptly report to the board the results of its negotia-
14 tions, with documentation of the factors affecting any unsuccessful
15 negotiations with higher ranked firms.

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17 announcement of the firm selected for each proposed project and shall
18 provide prompt notification to each recommended firm. The board shall
19 issue an annual report summarizing the projects processed during the
20 year and the firms selected to design them. The annual report also
21 shall list each grievance received, give the board's recommendation on
22 the grievance, and state what action was taken in response to the
23 board's recommendation.

24 Sec. 35.30.080. PROHIBITION AGAINST CONTINGENT FEES; MISDEMEANOR.
25 (a) Each contract entered into by an agency for professional services
26 shall contain a prohibition against contingent fees as follows: "The
27 contractor providing professional services warrants that he has not
28 employed or retained any person whose fee, commission, percentage, gift,
29 or any other consideration is contingent upon or results from the

1 award or making of this agreement." For a violation of this provision,
2 the agency may terminate the agreement without liability and, in its
3 discretion, may deduct from the contract price, or otherwise recover,
4 the full amount of the fee, commission, percentage, gift or considera-
5 tion.

6 (b) A public official or other person who offers, agrees, or
7 contracts to solicit or secure a state agency contract for professional
8 services for any other person for a fee, commission, percentage, gift or
9 other consideration contingent upon or resulting from, the award or the
10 making of a contract for professional services, is guilty of a misde-
11 meanor.

12 (c) An architect, engineer, land surveyor, or other person who
13 offers or pays or otherwise furnishes any consideration prohibited in
14 (b) of this section is guilty of a misdemeanor.

15 Sec. 35.30.090. OFFICE, STAFF, AND RECORDS. The Department of
16 Public Works shall provide the board a suitable place to hold meetings
17 and keep records. The commissioner of public works shall designate an
18 employee of the department to serve as executive secretary to the
19 board. He shall devote the time necessary to promote the expeditious
20 conduct of the board's duties and responsibilities.

21 Sec. 35.70.100. EXEMPTIONS. (a) Contracts where compensation to
22 be paid under the contract is less than \$20,000 are exempt from the
23 requirements of this chapter.

24 (b) The board may, on a case-by-case basis, exempt emergency
25 projects from the selection process. A brief statement of the emergency
26 that caused the exemption of any project shall be included in the board's
27 annual report made under sec. 70 of this chapter.

28 (c) This chapter does not apply to the selection of architects,
29 engineers or surveyors for state projects administered by the Department

1 of Highways.

2 Sec. 35.30.110. DEFINITIONS. In this chapter, unless the context
3 requires otherwise

4 (1) "agency" means all officials, departments, and agencies
5 of the state government, including the University of Alaska and the
6 Alaska State Housing Authority;

7 (2) "architect, engineer, or land surveyor" means an archi-
8 tect, engineer, or land surveyor registered to practice under AS 08.48;

9 (3) "board" means the Architects, Engineers, and Land Sur-
10 veyors Selection Review Board;

11 (4) "contracting agency" means the agency administering a
12 contract for architectural, engineering, or land surveying services;

13 (5) "committee" means a selection committee established under
14 sec. 50 of this chapter;

15 (6) "firm" means an architect, engineer, or land surveyor, or
16 a partnership, association, or corporation comprised primarily of
17 architects or engineers or land surveyors registered to practice under
18 AS 08.48;

19 (7) "professional service" means architectural, engineering,
20 or land surveying service;

21 (8) "project" means a construction project using professional
22 services associated with design and construction, alteration, or repair
23 of real property, as well as services incidental to it, including but
24 not limited to studies, investigations, surveys, evaluations, land
25 appraisals, consultations, planning, programming, conceptual designs,
26 plans and specifications, cost estimates, inspections, shop drawing
27 reviews, sample recommendations, preparation of operating and maintenance
28 manuals, and other related service;

29 (9) "user agency" means the agency which will occupy or use

1 the product of the professional service.

2 * Sec. 2. Nothing in this Act affects the validity or effect of any
3 contract in existence on January 1, 1977.

4 * Sec. 3. AS 35.30.030(2), (3), and (4), 35.30.040, and 35.30.050--
5 35.30.070, enacted in sec. 1 of this Act, take effect January 1, 1977. All
6 other provisions of this Act take effect immediately in accordance with AS
7 01.10.070(c).

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Introduced: 1/23/76
Referred: State Affairs

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 646

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

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23 the governor from names submitted by the Alaska chapter of the National
24 Society of Professional Engineers;

25 (3) two members shall be appointed by the governor from
26 the general public, neither of whom may be an architect or an engineer
27 or a land surveyor; the public members must possess, due to their
28 education, experience, or vocation, an understanding of and sensitivity
29 to project design or construction;

1 (4) one member must be a land surveyor appointed by the
2 governor from names submitted by the Alaska chapter of the American
3 Society of Professional Land Surveyors.

4 (c) The term of office of board members is two years. Initial
5 appointments within each classification in (b)(1)--(3) of this section
6 shall specify one-year and two-year terms so as to assure the stagger-
7 ing of terms within each classification. If a vacancy occurs on the
8 board, the governor shall appoint a person qualified under the appli-
9 cable provision in (b) of this section to serve the unexpired term.

10 (d) No member of the board or of a firm or joint venture with
11 which he is associated, or in which he has a financial interest, may
12 be barred, because of his board membership, from contracting to serve
13 as an architect, engineer, or land surveyor for a project or from
14 otherwise participating as a consultant or employee on a project.

15 (e) No member of the board may vote on a grievance matter brought
16 by or against him or by or against a firm or joint venture with which
17 he is associated or in which he has a financial interest.

18 Sec. 35.30.020. ORGANIZATION AND MEETINGS OF BOARD. At the
19 first meeting of the members of the board, the board shall elect a
20 chairman. The board shall also elect other officers it considers
21 necessary for the conduct of its affairs. It shall adopt rules
22 governing its operations and the conduct of its meetings. The rules
23 shall provide for the term of the chairman and other officers if any.
24 The board shall meet at least once every six months. In addition, the
25 board may take official action by mail votes or votes during confer-
26 ence telephone calls on reasonable notice to all members. Four members
27 constitute a quorum.

28 Sec. 35.30.030. DUTIES AND POWERS OF THE BOARD. The board shall

29 (1) adopt regulations under the Administrative Procedure

1 Act (AS 44.62) that it finds appropriate to supplement the procedure
2 established by this chapter for architect, engineer, and land surveyor
3 selection;

4 (2) review all selection procedures on a periodic basis;

5 (3) review any grievance related to the selection process
6 and recommend appropriate action to the governor; the board's recom-
7 mendations on grievances are public information;

8 (4) prepare an annual report on architect, engineer, and
9 land surveyor selection and selection grievances.

10 Sec. 35.30.040. REQUIREMENTS FOR PROFESSIONAL SERVICES. (a)
11 Each agency shall make public on at least an annual basis its known
12 present and future construction and planning programs, and its antici-
13 pated requirements for professional services for at least the follow-
14 ing 12-month period.

15 (b) When professional services are required for a specific
16 project, the chief executive officer of the contracting agency shall
17 submit a written notice to the board. The notice shall include a
18 description of the proposed project, its location, the scope of
19 services required, the proposed completion date, and a description of
20 any special requirements or unique features of the proposed project.

21 Sec. 35.30.050. QUALIFICATION OF ARCHITECTURAL, ENGINEERING, AND
22 SURVEYING FIRMS; SELECTION COMMITTEES. (a) The Department of Public
23 Works shall encourage firms engaged in the lawful practice of archi-
24 tecture, engineering, or land surveying to submit at least annually a
25 statement of qualifications. The department shall maintain an up-to-
26 date listing of qualified firms and shall make it available to selec-
27 tion committees formed under this section. The department shall
28 maintain a complete file of all qualified firms who have submitted a
29 statement within the previous two years.

1 (b) When an agency of the state expects to enter into a contract
2 for architectural, engineering, or land surveying services, the chief
3 executive officer of that contracting agency shall appoint two persons
4 from that agency to a three-member selection committee. The chief
5 executive officer of the user agency for the proposed project shall
6 appoint a person from the user agency as the third member of the
7 committee. If it is anticipated that there will be more than one user
8 agency, then the third committee member shall be appointed by the
9 commissioner of administration. Committee members appointed from the
10 Department of Public Works must be employees in the classified service
11 under AS 39.25. The members shall elect a chairman.

12 (c) The committee, upon its appointment, shall make a public
13 announcement of the proposed project which includes a description of
14 the proposed project, its location, the scope of service required, the
15 proposed completion date, and a description of any special require-
16 ments or unique features. The announcement shall invite firms to
17 submit to the committee an application to perform services for the
18 project which may include supplemental descriptions of their firms and
19 statements of qualifications with supporting data as it relates to the
20 proposed project.

21 (d) The committee shall examine all applications from interested
22 firms and certify those firms qualified to perform the services for
23 the project under consideration. Among the factors to be considered
24 in making this finding are the capability, adequacy of personnel, past
25 record, and experience of the firm.

26 (e) In evaluating the firms certified under (d) of this section,
27 the committee shall apply the following criteria, along with other
28 criteria established by administrative regulations of the department
29 if any:

1 (1) specialized experience and design and technical compe-
2 tence of the firm, including a joint venture or association, regarding
3 the type of service required;

4 (2) capability of the firm to perform the work, including
5 any specialized services, within the time limitations;

6 (3) past record of performance on contracts with government
7 agencies and private industry with respect to such factors as control
8 of costs, quality of work, and ability to meet schedules;

9 (4) proximity to and familiarity with the area in which the
10 project is located; and

11 (5) the desirability of selecting the most highly qualified
12 firm; however, the volume of work previously awarded to the firm by
13 the state shall also be considered, with the object of effecting an
14 equitable distribution of contracts among qualified firms and of
15 assuring that the interest of the public in having available a sub-
16 stantial number of qualified firms is protected.

17 (f) After making this review and technical evaluation, the
18 committee shall hold discussions with not less than three of the most
19 highly qualified firms regarding their capability and methods of
20 approach for furnishing the required services. Professional compensa-
21 tion may not be considered in these discussions.

22 (g) The committee shall prepare a public report for submission
23 to the board, recommending, in order of highest qualification, no less
24 than three firms that are considered most highly qualified to perform
25 the required services. This report shall include a statement of the
26 extent of the evaluation and review and the considerations upon which
27 the recommendations were based. If the committee has found under (d)
28 of this section that less than three firms are qualified to perform
29 the services, it shall include in its report the reasons for qualifying

1 less than three. The report shall be made within 45 days after the
2 committee is appointed.

3 Sec. 35.30.060. NEGOTIATIONS. (a) The contracting agency shall
4 conduct negotiations on scope of work and professional compensation
5 initially with the highest ranked firm. If a mutually satisfactory
6 contract cannot be negotiated with that firm, the agency head shall
7 formally terminate the negotiations and notify the firm. Negotiations
8 then shall be initiated with the second-ranked firm and this procedure
9 shall be continued until a mutually satisfactory contract has been
10 negotiated. If negotiations fail with the listed firms, the names of
11 additional firms shall be selected and ranked by the committee and
12 negotiations shall continue in the manner described in this subsection.

13 (b) Upon successfully negotiating a contract with a firm, the
14 agency shall promptly report to the board the results of its negotia-
15 tions, with documentation of the factors affecting any unsuccessful
16 negotiations with higher ranked firms.

17 Sec. 35.30.070. PUBLIC REPORTS. The board shall make a public
18 announcement of the firm selected for each proposed project and shall
19 provide prompt notification to each recommended firm. The board shall
20 issue an annual report summarizing the projects processed during the
21 year and the firms selected to design them. The annual report also
22 shall list each grievance received, give the board's recommendation on
23 the grievance, and state what action was taken in response to the
24 board's recommendation.

25 Sec. 35.30.080. PROHIBITION AGAINST CONTINGENT FEES; MISDEMEANOR.
26 (a) Each contract entered into by an agency for professional services
27 shall contain a prohibition against contingent fees as follows: "The
28 contractor providing professional services warrants that he has not
29 employed or retained any person other than a bona fide employee work-

1 ing solely for the contractor to solicit or secure this agreement, and
2 that he has not paid or agreed to pay any person, other than a bona
3 fide employee working solely for the contractor, any fee, commission,
4 percentage, gift, or any other consideration contingent upon or result-
5 ing from the award or making of this agreement." For a violation of
6 this provision, the agency may terminate the agreement without lia-
7 bility and, in its discretion, may deduct from the contract price, or
8 otherwise recover, the full amount of the fee, commission, percentage,
9 gift or consideration.

10 (b) A public official or other person who offers, agrees, or
11 contracts to solicit or secure a state agency contract for professional
12 services for any other person for a fee, commission, percentage, gift
13 or other consideration contingent upon or resulting from, the award or
14 the making of a contract for professional services, is guilty of a
15 misdemeanor.

16 (c) An architect, engineer, land surveyor, or other person who
17 offers or pays or otherwise furnishes any consideration prohibited in
18 (b) of this section is guilty of a misdemeanor.

19 Sec. 35.30.090. OFFICE, STAFF, AND RECORDS. The Department of
20 Public Works shall provide the board a suitable place to hold meetings
21 and keep records. The commissioner of public works shall designate
22 an employee of the department to serve as executive secretary to the
23 board. He shall devote the time necessary to promote the expeditious
24 conduct of the board's duties and responsibilities.

25 Sec. 35.30.100. EXEMPTIONS. (a) The board may adopt regulations
26 exempting contracts from requirements of this chapter where compensa-
27 tion to be paid under the contract is less than a specified amount to
28 be determined by the board.

29 (b) The board may, on a case-by-case basis, exempt emergency

1 projects from the selection process. A brief statement of the emer-
2 gency that caused the exemption of any project shall be included in
3 the board's annual report made under sec. 70 of this chapter.

4 Sec. 35.30.110. DEFINITIONS. In this chapter, unless the context
5 requires otherwise

6 (1) "agency" means all officials, departments, and agencies
7 of the state government, including the University of Alaska and the
8 Alaska State Housing Authority;

9 (2) "architect, engineer, or land surveyor" means an archi-
10 tect, engineer, or land surveyor registered to practice under AS
11 08.48;

12 (3) "board" means the Architects, Engineers, and Land
13 Surveyors Selection Review Board;

14 (4) "contracting agency" means the agency administering a
15 contract for architectural, engineering, or land surveying services;

16 (5) "committee" means a selection committee established
17 under sec. 50 of this chapter;

18 (6) "firm" means an architect, engineer, or land surveyor,
19 or a partnership, association, or corporation comprised primarily of
20 architects or engineers or land surveyors registered to practice under
21 AS 08.48;

22 (7) "professional service" means architectural, engineer-
23 ing, or land surveying service;

24 (8) "project" means a construction project using professional
25 services associated with design and construction, alteration, or
26 repair of real property, as well as services incidental to it, in-
27 cluding but not limited to studies, investigations, surveys, evalua-
28 tions, land appraisals, consultations, planning, programming, con-
29 ceptual designs, plans and specifications, cost estimates, inspections,

1 shop drawing reviews, sample recommendations, preparation of operating
2 and maintenance manuals, and other related service;

3 (9) "user agency" means the agency which will occupy or use
4 the product of the professional service.

5 * Sec. 2. Nothing in this Act affects the validity or effect of any
6 contract in existence on January 1, 1977.

7 * Sec. 3. AS 35.30.030(2), (3), and (4), 35.30.040, and 35.30.050--
8 35.30.070, enacted in sec. 1 of this Act, take effect January 1, 1977. All
9 other provisions of this Act take effect immediately in accordance with AS
10 01.10.070(c).

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January 23, 1976

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to selection of architects, engineers and surveyors for state projects.

The purpose of the bill is to assure a fair and open procedure for securing the contract services of these professionals when they are needed for construction projects. By an attachment to this transmittal letter, the objectives of the bill are summarized.

The bill provides for a selection review board composed of two architects, two engineers, one land surveyor and two public members, with appointments of members to be made by the Governor, subject to legislative confirmation. The professional members are to be selected from persons nominated by the affected professional societies.

By the terms of the bill the board would oversee the selection process by:

- (1) adopting regulations to supplement selection procedures set out in the bill;
- (2) reviewing selection procedures periodically;
- (3) reviewing and making a public recommendation to the Governor on any grievance in the selection process; and;
- (4) making an annual report covering (a) the professional selections made, and (b) any grievances processed, with recommendations made as to those grievances and a statement of the action taken on the recommendations.

The bill requires that the need for professional services be advertised. It also establishes procedures for qualifying firms that apply, selecting the best qualified, and reporting on the entire process to the selection review board which then would make a public announcement of the selection and notify the competing firms.

Both offering and accepting a fee contingent upon successfully securing a professional-services contract are made misdemeanors.

By regulation, the board may eliminate small contracts from the selection procedure. Emergency projects also may be exempted from the selection procedure, but a report on the exemption must be included in the board's annual report.

Sincerely,

Jay S. Hammond
Governor

OBJECTIVES OF A/E SELECTION PROCEDURE

STATE AGENCIES

GENERAL PUBLIC

A/E FIRMS

- | | | |
|---|---|---|
| 1. Obtain qualified & competent A/E services | 1. Selection to consider all interested and qualified firms | 1. Insure that all interested firms are considered in the selection procedure. |
| 2. Establish uniform, unbiased selection procedure | 2. Procedure to insure against favoritism or political pressure | 2. Selection based on uniform applications of procedure to evaluate qualifications and competency |
| 3. Establish procedure not subject to political or outside pressure | 3. Procedure to insure competent firm is selected at a fair fee | 3. Provide for investigation and review of alleged irregularities |
| 4. Establish procedure convenient and adequate for agency to use | | 4. Provide an uncomplicated, easy, adaptable procedure that will not discourage agencies from utilizing an A/E contract |

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

Second Session - Ninth Legislature

REVISED: 2/24/76

I. REQUEST

HB BILL No. 646

Title: An act relating the selection of architects, engineers, & surveyors for State projects

Requested by: Francis Ulmer, Governor's Office Date: January 26, 1976

Return Date Requested: As soon as possible.

Agency: Public Works Program: Buildings

II. FISCAL DETAIL

Budget Request Unit(s) Affected: All agencies

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES	8.5	25.5	34.1	37.5	41.2	45.3
200 TRAVEL	17.3	52.0	69.4	76.3	84.0	92.3
300 CONTRACTUAL	1.9	5.7	7.6	8.4	9.2	10.1
400 COMMODITIES	.5	1.4	1.8	2.0	2.2	2.4
500 EQUIPMENT	1.5 6	-0-				
600 LAND & STRUCTURES	-0-	-0-	-0-			
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-			
TOTAL	28.8 29.7	84.6	112.8	124.2	136.6	150.1

B. FUNDING: (Thousands of dollars)

CHANGE FUNDING TO
GENERAL FUND PER
HFC 3.20.76

	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
GENERAL FUND	↑	↑	↑	↑	↑	↑
FEDERAL FUNDS						
OTHER CIP	29.7	84.6	112.8	124.2	136.6	150.1
	28.8					

* C. POSITIONS:


	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
PERMANENT/TEMPORARY	4 /	4 /	4 /	4 /	4 /	4 /
MAN MONTHS (P./T.)	4 /	11 /	15 /	15 /	15 /	15 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached one page

* Positions indicated are part time permanent positions and could possibly be combined with existing positions.

IV. ATTACHMENTS

V. DATE: January 28, 1976 PREPARED BY: 

Robert R. Venusti, Architect

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Assumptions and Calculations *	Amount
Personal Services **	
1. Board member's salaries (not covered in bill).	-0-
2. Salaries of committee members, 2 committee members, ½ year per member @ range 21.	\$19,036
3. Executive secretary ½ year, range 19.	\$ 8,215
4. 6 mo. permanent part time Clerk Typist III.	<u>\$ 6,814</u>
Total	\$34,065
 Travel & Per Diem	
1. Board members - 7 members plus executive secretary - assume 3 meetings per year (one in Juneau, one in Anchorage, one in Fairbanks) with 6 travelers per meeting = 18 tickets @ \$160.00 per ticket. Per diem = (6 people) (3 trips) (5 days) = 90 days.	\$ 2,880 \$ 4,500
2. Committee members - initial evaluation. Assume 1 out of the three members will have to travel on at least half of the number of projects per year (100 projects). Plane tickets 50 x \$160.00 Per diem 50 x 3 days = 150 days @ \$50.00	\$ 8,000 \$ 7,500
3. Committee members - discussions with the three selected firms. Assume one selected firm out of town for each project, two projects discussed at one travel period. (3 people) (50 projects) = 150 tickets @ \$160.00. Per diem (3 people) (3 days) (50 projects) = 450 days @ \$50.00.	\$24,000 <u>\$22,500</u>
Total	\$69,380
 Contractual Services	
Telephone \$200.00 per month	\$ 2,400
Postage and transportation of things \$100.00 per mo.	\$ 1,200
Advertising, public notices (\$30.00) (100 projects)	\$ 3,000
Printing and distribution of annual report.	<u>\$ 1,000</u>
Total	\$ 7,600
 Commodities	
Paper and office supplies \$150.00 per mo.	<u>\$ 1,800</u>
Total	\$ 1,800
 Equipment for typist	
Typewriter, desk, chair, file cabinet.	<u>\$ 1,475</u>
Total	\$ 1,475

* All calculations based on 100 projects per year.

** Salaries include benefits.

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

Second Session - Ninth Legislature

REVISED: 2/24/76

I. REQUEST

HB Bill No. 646

Title: An act relating the selection of architects, engineers, & surveyors for State projects

Requested by: Francis Ulmer, Governor's Office Date: January 24, 1976

Return Date Requested: As soon as possible.

Agency: Public Works Program: Buildings

II. FISCAL DETAIL

Budget Request Unit(s) Affected: All agencies

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES	8.5	25.5	34.1	37.5	41.2	45.3
200 TRAVEL	17.3	52.0	69.4	76.3	84.0	92.3
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400 COMMODITIES	.5	1.4	1.8	2.0	2.2	2.4
500 EQUIPMENT	1.5	-0-				
600 LAND & STRUCTURES	-0-	-0-	-0-			
700 GRANTS, CLAIMS, ETC. :	-0-	-0-	-0-			
TOTAL	29.7	84.6	112.8	124.2	136.6	150.1

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER CIP	29.7	84.6	112.8	124.2	136.6	150.1

* C. POSITIONS:


PERMANENT/TEMPORARY MAN MONTHS (P./T.)	4 / 4 /	4 / 11 /	4 / 15 /	4 / 15 /	4 / 15 /	4 / 15 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

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* Positions indicated are part time permanent positions and could possibly be combined with existing positions.

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Robert R. Venusti, Architect

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

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Amount

Personal Services **

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2. Salaries of committee members, 2 committee members, 1/2 year per member @ range 21.	\$19,036
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Per diem = (6 people) (3 trips) (5 days) = 90 days.	\$ 4,500
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Total	<u>\$69,380</u>

Contractual Services

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Postage and transportation of things \$100.00 per mo.	\$ 1,200
Advertising, public notices (\$30.00) (100 projects)	\$ 3,000
Printing and distribution of annual report.	\$ 1,000
Total	<u>\$ 7,600</u>

Commodities

Paper and office supplies \$150.00 per mo.	\$ 1,800
Total	<u>\$ 1,800</u>

Equipment for typist

Typewriter, desk, chair, file cabinet.	\$ 1,475
Total	<u>\$ 1,475</u>

* All calculations based on 100 projects per year.

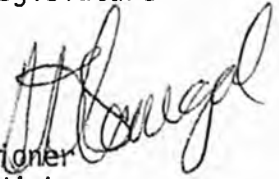
** Salaries include benefits.

STATE
of ALASKA

MEMORANDUM

TO: Honorable Hugh Malone
Chairman, House Finance Committee
Alaska State Legislature

DATE : March 19, 1976

FROM: H. D. Scougal 
Acting Commissioner
Department of Highways

00-3077
SUBJECT: CSHB 646

We have no objections to the passage of this bill as it is now and
request its passage.

HDS/mth

"An Act relating to selection of architects, engineers, and surveyors for state projects."

COMMITTEE REPORT

3/9/76

HOUSE

Mr. Speaker:

Date

March 14 1976

The Committee on FINANCE has had HR 646

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR FINANCE HR 646 AND THAT

CS FOR HR 646 DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

J. Malone _____
E. Proulx _____
H. ... _____
... _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

J. Malone _____ Chairman

Original Sponsor: Rules Committee by
request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 646 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

NINTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to selection of architects, engineers,
7 and surveyors for state projects; and providing for
8 an effective date."

9

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

10

* Section 1. AS 35 is amended by adding a new chapter to read:

11

CHAPTER 30. STATE SELECTION OF ARCHITECTS,

12

ENGINEERS, AND SURVEYORS.

13

Sec. 35.30.010. SELECTION REVIEW BOARD. (a) There is in the
14 Department of Public Works an Architects, Engineers, and Land Surveyors
15 Selection Review Board.

16

(b) The board is composed of seven members, appointed by the
17 governor and subject to confirmation by the legislature in joint session.
18 Members shall be appointed as follows:

19

(1) two members must be registered architects appointed by
20 the governor from a list of at least four names submitted by the Alaska
21 chapter of the American Institute of Architects;

22

(2) two members must be registered engineers appointed by the
23 governor from a list of at least four names submitted by the Alaska
24 chapter of the National Society of Professional Engineers;

25

(3) two members shall be appointed by the governor from the
26 general public, neither of whom may be an architect or an engineer or a
27 land surveyor; the public members must possess, due to their education,
experience, or vocation, an understanding of and sensitivity to project
28 design or construction;

1 (4) one member must be a land surveyor appointed by the
2 governor from names submitted by the Alaska chapter of the American
3 Society of Professional Land Surveyors.

4 (c) The term of office of board members is two years. Initial
5 appointments within each classification in (b)(1)-(3) of this section
6 shall specify one-year and two-year terms so as to assure the staggering
7 of terms within each classification. If a vacancy occurs on the board,
8 the governor shall appoint a person qualified under the applicable
9 provision in (b) of this section to serve the unexpired term.

10 (d) No member of the board or of a firm or joint venture with
11 which he is associated, or in which he has a financial interest, may be
12 barred, because of his board membership, from contracting to serve as an
13 architect, engineer, or land surveyor for a project or from otherwise
14 participating as a consultant or employee on a project.

15 (e) No member of the board may vote on a grievance matter brought
16 by or against him or by or against a firm or joint venture with which he
17 is associated or in which he has a financial interest.

18 Sec. 35.30.020. ORGANIZATION AND MEETINGS OF BOARD. At the first
19 meeting of the members of the board, the board shall elect a chairman.
20 The board shall also elect other officers it considers necessary for the
21 conduct of its affairs. It shall adopt rules governing its operations
22 and the conduct of its meetings. The rules shall provide for the term
23 of the chairman and other officers if any. The board shall meet at
24 least once every six months. In addition, the board may take official
25 action by mail votes or votes during conference telephone calls on
26 reasonable notice to all members. Four members constitute a quorum.

27 Sec. 35.30.030. DUTIES AND POWERS OF THE BOARD. The board shall
28 (1) adopt regulations under the Administrative Procedure Act
29 (AS 44.62) that it finds appropriate to supplement the procedure

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2 selection;

3 (2) review all selection procedures on a periodic basis;

4 (3) review any grievance related to the selection process
5 and recommend appropriate action to the governor; the board's recom-
6 mendations on grievances are public information;

7 (4) prepare an annual report on architect, engineer, and land
8 surveyor selection and selection grievances.

9 Sec. 35.30.040. COMPENSATION, PER DIEM, AND EXPENSES. Members of
10 the board are entitled to per diem, reimbursement for travel and other
11 expenses authorized by law for other boards.

12 Sec. 35.30.050. REQUIREMENTS FOR PROFESSIONAL SERVICES. (a) Each
13 agency shall make public on at least an annual basis its known present
14 and future construction and planning programs, and its anticipated
15 requirements for professional services for at least the following 12-
16 month period.

17 (b) When professional services are required for a specific pro-
18 ject, the chief executive officer of the contracting agency shall submit
19 a written notice to the board. The notice shall include a description
20 of the proposed project, its location, the scope of services required,
21 the proposed completion date, and a description of any special require-
22 ments or unique features of the proposed project.

23 Sec. 35.30.060. QUALIFICATION OF ARCHITECTURAL, ENGINEERING, AND
24 SURVEYING FIRMS; SELECTION COMMITTEES. (a) The Department of Public
25 Works shall encourage firms engaged in the lawful practice of archi-
26 tecture, engineering, or land surveying to submit at least annually a
27 statement of qualifications. The department shall maintain an up-to-
28 date listing of qualified firms and shall make it available to selection
29 committees formed under this section. The department shall maintain a

1 complete file of all qualified firms who have submitted a statement
2 within the previous two years.

3 (b) When an agency of the state expects to enter into a contract
4 for architectural, engineering, or land surveying services, the chief
5 executive officer of that contracting agency shall appoint two persons
6 from that agency to a three-member selection committee. The chief
7 executive officer of the user agency for the proposed project shall
8 appoint a person from the user agency as the third member of the com-
9 mittee. If it is anticipated that there will be more than one user
10 agency, then the third committee member shall be appointed by the
11 commissioner of administration. Committee members appointed from the
12 Department of Public Works must be employees in the classified service
13 under AS 39.25. The members shall elect a chairman.

14 (c) The committee, upon its appointment, shall make a public
15 announcement of the proposed project which includes a description of the
16 proposed project, its location, the scope of service required, the
17 proposed completion date, and a description of any special requirements
18 or unique features. The announcement shall invite firms to submit to
19 the committee an application to perform services for the project which
20 may include supplemental descriptions of their firms and statements of
21 qualifications with supporting data as it relates to the proposed pro-
22 ject.

23 (d) The committee shall examine all applications from interested
24 firms and certify those firms qualified to perform the services for the
25 project under consideration. Among the factors to be considered in
26 making this finding are the capability, adequacy of personnel, past
27 record, and experience of the firm.

28 (e) In evaluating the firms certified under (d) of this section,
29 the committee shall apply the following criteria, along with other

1 criteria established by administrative regulations of the department if
2 any:

3 (1) specialized experience and design and technical compe-
4 tence of the firm, including a joint venture or association, regarding
5 the type of service required;

6 (2) capability of the firm to perform the work, including any
7 specialized services, within the time limitations;

8 (3) past record of performance on contracts with government
9 agencies and private industry with respect to such factors as control of
10 costs, quality of work, and ability to meet schedules;

11 (4) proximity to and familiarity with the area in which the
12 project is located; and

13 (5) the desirability of selecting the most highly qualified
14 firm; however, the volume of work previously awarded to the firm by the
15 state shall also be considered, with the object of effecting an equi-
16 table distribution of contracts among qualified firms and of assuring
17 that the interest of the public in having available a substantial number
18 of qualified firms is protected.

19 (f) After making this review and technical evaluation, the com-
20 mittee shall hold discussions with not less than three of the most
21 highly qualified firms regarding their capability and methods of ap-
22 proach for furnishing the required services. Professional compensation
23 may not be considered in these discussions.

24 (g) The committee shall prepare a public report for submission to
25 the board, recommending, in order of highest qualification, no less than
26 three firms that are considered most highly qualified to perform the
27 required services. This report shall include a statement of the extent
28 of the evaluation and review and the considerations upon which the
29 recommendations were based. If the committee has found under (d) of

1 this section that less than three firms are qualified to perform the
2 services, it shall include in its report the reasons for qualifying less
3 than three. The report shall be made within 45 days after the committee
4 is appointed.

5 Sec. 35.30.070. NEGOTIATIONS. (a) The contracting agency shall
6 conduct negotiations on scope of work and professional compensation
7 initially with the highest ranked firm. If a mutually satisfactory
8 contract cannot be negotiated with that firm, the agency head shall
9 formally terminate the negotiations and notify the firm. Negotiations
10 then shall be initiated with the second-ranked firm and this procedure
11 shall be continued until a mutually satisfactory contract has been
12 negotiated. If negotiations fail with the listed firms, the names of
13 additional firms shall be selected and ranked by the committee and
14 negotiations shall continue in the manner described in this subsection.

15 (b) Upon successfully negotiating a contract with a firm, the
16 agency shall promptly report to the board the results of its negotia-
17 tions, with documentation of the factors affecting any unsuccessful
18 negotiations with higher ranked firms.

19 Sec. 35.30.080. PUBLIC REPORTS. The board shall make a public
20 announcement of the firm selected for each proposed project and shall
21 provide prompt notification to each recommended firm. The board shall
22 issue an annual report summarizing the projects processed during the
23 year and the firms selected to design them. The annual report also
24 shall list each grievance received, give the board's recommendation on
25 the grievance, and state what action was taken in response to the
26 board's recommendation.

27 Sec. 35.30.090. PROHIBITION AGAINST CONTINGENT FEES; MISDEMEANOR.
28 (a) Each contract entered into by an agency for professional services
29 shall contain a prohibition against contingent fees as follows: "The

1 contractor providing professional services warrants that he has not
2 employed or retained any person whose fee, commission, percentage, gift,
3 or any other consideration is contingent upon or results from the
4 award or making of this agreement." For a violation of this provision,
5 the agency may terminate the agreement without liability and, in its
6 discretion, may deduct from the contract price, or otherwise recover,
7 the full amount of the fee, commission, percentage, gift or considera-
8 tion.

9 (b) A public official or other person who offers, agrees, or
10 contracts to solicit or secure a state agency contract for professional
11 services for any other person for a fee, commission, percentage, gift or
12 other consideration contingent upon or resulting from, the award or the
13 making of a contract for professional services, is guilty of a misde-
14 meanor.

15 (c) An architect, engineer, land surveyor, or other person who
16 offers or pays or otherwise furnishes any consideration prohibited in
17 (b) of this section is guilty of a misdemeanor.

18 Sec. 35.30.100. OFFICE, STAFF, AND RECORDS. The Department of
19 Public Works shall provide the board a suitable place to hold meetings
20 and keep records. The commissioner of public works shall designate an
21 employee of the department to serve as executive secretary to the
22 board. He shall devote the time necessary to promote the expeditious
23 conduct of the board's duties and responsibilities.

24 Sec. 35.30.110. EXEMPTIONS. (a) Contracts where compensation to
25 be paid under the contract is less than \$20,000 are exempt from the
26 requirements of this chapter.

27 (b) The board may, on a case-by-case basis, exempt emergency
28 projects from the selection process. A brief statement of the emergency
29 that caused the exemption of any project shall be included in the

1 board's annual report made under sec. 80 of this chapter.

2 Sec. 35.30.120. DEFINITIONS. In this chapter, unless the context
3 requires otherwise,

4 (1) "agency" means all officials, departments, and agencies
5 of the state government, including the University of Alaska and the
6 Alaska State Housing Authority;

7 (2) "architect, engineer, or land surveyor" means an archi-
8 tect, engineer, or land surveyor registered to practice under AS 08.48;

9 (3) "board" means the Architects, Engineers, and Land Sur-
10 veyors Selection Review Board;

11 (4) "contracting agency" means the agency administering a
12 contract for architectural, engineering, or land surveying services;

13 (5) "committee" means a selection committee established under
14 sec. 60 of this chapter;

15 (6) "firm" means an architect, engineer, or land surveyor, or
16 a partnership, association, or corporation comprised primarily of
17 architects or engineers or land surveyors registered to practice under
18 AS 08.48;

19 (7) "professional service" means architectural, engineering,
20 or land surveying service;

21 (8) "project" means a construction project using professional
22 services associated with design and construction, alteration, or repair
23 of real property, as well as services incidental to it, including but
24 not limited to studies, investigations, surveys, evaluations, land
25 appraisals, consultations, planning, programming, conceptual designs,
26 plans and specifications, cost estimates, inspections, shop drawing
27 reviews, sample recommendations, preparation of operating and mainte-
28 nance manuals, and other related service;

29 (9) "user agency" means the agency which will occupy or use

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the product of the professional service.

* Sec. 2. Nothing in this Act affects the validity or effect of any contract in existence on January 1, 1977.

* Sec. 3. AS 35.30.030(2), (3), and (4), 35.30.050, and 35.30.060 - 35.30.080, enacted in sec. 1 of this Act, take effect January 1, 1977. All other provisions of this Act take effect immediately in accordance with AS 01.10.070(c).

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Original Sponsor: Rules Committee by
request of the Governor

Offered: 3/9/76
Referred: Finance

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 646

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to selection of architects, engineers,
7 and surveyors for state projects; and providing for
8 an effective date."

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

10 * Section 1. AS 35 is amended by adding a new chapter to read:

11 CHAPTER 30 STATE SELECTION OF ARCHITECTS,
12 ENGINEERS, AND SURVEYORS.

13 Sec. 35.30.010. SELECTION REVIEW BOARD. (a) There is in the
14 Department of Public Works an Architects, Engineers, and Land Surveyors
15 Selection Review Board.

16 (b) The board is composed of seven members, appointed by the
17 governor and subject to confirmation by the legislature in joint session.
18 Members shall be appointed as follows:

19 (1) two members must be registered architects appointed by
20 the governor from a list of at least four names submitted by the Alaska
21 chapter of the American Institute of Architects;

22 (2) two members must be registered engineers appointed by the
23 governor from a list of at least four names submitted by the Alaska
24 chapter of the National Society of Professional Engineers;

25 (3) two members shall be appointed by the governor from the
26 general public, neither of whom may be an architect or an engineer or a
27 land surveyor; the public members must possess, due to their education,
28 experience, or vocation, an understanding of and sensitivity to project
29 design or construction;

1 (4) one member must be a land surveyor appointed by the
2 governor from names submitted by the Alaska chapter of the American
3 Society of Professional Land Surveyors.

4 (c) The term of office of board members is two years. Initial
5 appointments within each classification in (b)(1)-(3) of this section
6 shall specify one-year and two-year terms so as to assure the staggering
7 of terms within each classification. If a vacancy occurs on the board,
8 the governor shall appoint a person qualified under the applicable
9 provision in (b) of this section to serve the unexpired term.

10 (d) No member of the board or of a firm or joint venture with
11 which he is associated, or in which he has a financial interest, may be
12 barred, because of his board membership, from contracting to serve as an
13 architect, engineer, or land surveyor for a project or from otherwise
14 participating as a consultant or employee on a project.

15 (e) No member of the board may vote on a grievance matter brought
16 by or against him or by or against a firm or joint venture with which he
17 is associated or in which he has a financial interest.

18 Sec. 35.30.020. ORGANIZATION AND MEETINGS OF BOARD. At the first
19 meeting of the members of the board, the board shall elect a chairman.
20 The board shall also elect other officers it considers necessary for the
21 conduct of its affairs. It shall adopt rules governing its operations
22 and the conduct of its meetings. The rules shall provide for the term
23 of the chairman and other officers if any. The board shall meet at
24 least once every six months. In addition, the board may take official
25 action by mail votes or votes during conference telephone calls on
26 reasonable notice to all members. Four members constitute a quorum.

27 Sec. 35.30.030. DUTIES AND POWERS OF THE BOARD. The board shall

28 (1) adopt regulations under the Administrative Procedure Act
29 (AS 44.62) that it finds appropriate to supplement the procedure

1 established by this chapter for architect, engineer, and land surveyor
2 selection;

3 (2) review all selection procedures on a periodic basis;

4 (3) review any grievance related to the selection process and
5 recommend appropriate action to the governor; the board's recommendations
6 on grievances are public information;

7 (4) prepare an annual report on architect, engineer, and land
8 surveyor selection and selection grievances.

9 Sec. 35.30.040. REQUIREMENTS FOR PROFESSIONAL SERVICES. (a) Each
10 agency shall make public on at least an annual basis its known present
11 and future construction and planning programs, and its anticipated
12 requirements for professional services for at least the following 12-
13 month period.

14 (b) When professional services are required for a specific project,
15 the chief executive officer of the contracting agency shall submit a
16 written notice to the board. The notice shall include a description of
17 the proposed project, its location, the scope of services required, the
18 proposed completion date, and a description of any special requirements
19 or unique features of the proposed project.

20 Sec. 35.30.050. QUALIFICATION OF ARCHITECTURAL, ENGINEERING, AND
21 SURVEYING FIRMS; SELECTION COMMITTEES. (a) The Department of Public
22 Works shall encourage firms engaged in the lawful practice of archi-
23 tecture, engineering, or land surveying to submit at least annually a
24 statement of qualifications. The department shall maintain an up-to-
25 date listing of qualified firms and shall make it available to selection
26 committees formed under this section. The department shall maintain a
27 complete file of all qualified firms who have submitted a statement
28 within the previous two years.

29 (b) When an agency of the state expects to enter into a contract

1 for architectural, engineering, or land surveying services, the chief
2 executive officer of that contracting agency shall appoint two persons
3 from that agency to a three-member selection committee. The chief
4 executive officer of the user agency for the proposed project shall
5 appoint a person from the user agency as the third member of the com-
6 mittee. If it is anticipated that there will be more than one user
7 agency, then the third committee member shall be appointed by the
8 commissioner of administration. Committee members appointed from the
9 Department of Public Works must be employees in the classified service
10 under AS 39.25. The members shall elect a chairman.

11 (c) The committee, upon its appointment, shall make a public
12 announcement of the proposed project which includes a description of the
13 proposed project, its location, the scope of service required, the
14 proposed completion date, and a description of any special requirements
15 or unique features. The announcement shall invite firms to submit to
16 the committee an application to perform services for the project which
17 may include supplemental descriptions of their firms and statements of
18 qualifications with supporting data as it relates to the proposed pro-
19 ject.

20 (d) The committee shall examine all applications from interested
21 firms and certify those firms qualified to perform the services for the
22 project under consideration. Among the factors to be considered in
23 making this finding are the capability, adequacy of personnel, past
24 record, and experience of the firm.

25 (e) In evaluating the firms certified under (d) of this section,
26 the committee shall apply the following criteria, along with other
27 criteria established by administrative regulations of the department if
28 any:

29 (1) specialized experience and design and technical compe-

1 tence of the firm, including a joint venture or association, regarding
2 the type of service required;

3 (2) capability of the firm to perform the work, including any
4 specialized services, within the time limitations;

5 (3) past record of performance on contracts with government
6 agencies and private industry with respect to such factors as control of
7 costs, quality of work, and ability to meet schedules;

8 (4) proximity to and familiarity with the area in which the
9 project is located; and

10 (5) the desirability of selecting the most highly qualified
11 firm; however, the volume of work previously awarded to the firm by the
12 state shall also be considered, with the object of effecting an equi-
13 table distribution of contracts among qualified firms and of assuring
14 that the interest of the public in having available a substantial number
15 of qualified firms is protected.

16 (f) After making this review and technical evaluation, the com-
17 mittee shall hold discussions with not less than three of the most
18 highly qualified firms regarding their capability and methods of approach
19 for furnishing the required services. Professional compensation may not
20 be considered in these discussions.

21 (g) The committee shall prepare a public report for submission to
22 the board, recommending, in order of highest qualification, no less than
23 three firms that are considered most highly qualified to perform the
24 required services. This report shall include a statement of the extent
25 of the evaluation and review and the considerations upon which the
26 recommendations were based. If the committee has found under (d) of
27 this section that less than three firms are qualified to perform the
28 services, it shall include in its report the reasons for qualifying less
29 than three. The report shall be made within 45 days after the committee

1 is appointed.

2 Sec. 35.30.060. NEGOTIATIONS. (a) The contracting agency shall
3 conduct negotiations on scope of work and professional compensation
4 initially with the highest ranked firm. If a mutually satisfactory
5 contract cannot be negotiated with that firm, the agency head shall
6 formally terminate the negotiations and notify the firm. Negotiations
7 then shall be initiated with the second-ranked firm and this procedure
8 shall be continued until a mutually satisfactory contract has been
9 negotiated. If negotiations fail with the listed firms, the names of
10 additional firms shall be selected and ranked by the committee and
11 negotiations shall continue in the manner described in this subsection.

12 (b) Upon successfully negotiating a contract with a firm, the
13 agency shall promptly report to the board the results of its negotia-
14 tions, with documentation of the factors affecting any unsuccessful
15 negotiations with higher ranked firms.

16 Sec. 35.30.070. PUBLIC REPORTS. The board shall make a public
17 announcement of the firm selected for each proposed project and shall
18 provide prompt notification to each recommended firm. The board shall
19 issue an annual report summarizing the projects processed during the
20 year and the firms selected to design them. The annual report also
21 shall list each grievance received, give the board's recommendation on
22 the grievance, and state what action was taken in response to the
23 board's recommendation.

24 Sec. 35.30.080. PROHIBITION AGAINST CONTINGENT FEES; MISDEMEANOR.

25 (a) Each contract entered into by an agency for professional services
26 shall contain a prohibition against contingent fees as follows: "The
27 contractor providing professional services warrants that he has not
28 employed or retained any person whose fee, commission, percentage, gift,
29 or any other consideration is contingent upon or results from the

1 award or making of this agreement." For a violation of this provision,
2 the agency may terminate the agreement without liability and, in its
3 discretion, may deduct from the contract price, or otherwise recover,
4 the full amount of the fee, commission, percentage, gift or considera-
5 tion.

6 (b) A public official or other person who offers, agrees, or
7 contracts to solicit or secure a state agency contract for professional
8 services for any other person for a fee, commission, percentage, gift or
9 other consideration contingent upon or resulting from, the award or the
10 making of a contract for professional services, is guilty of a misde-
11 meanor.

12 (c) An architect, engineer, land surveyor, or other person who
13 offers or pays or otherwise furnishes any consideration prohibited in
14 (b) of this section is guilty of a misdemeanor.

15 Sec. 35.30.090. OFFICE, STAFF, AND RECORDS. The Department of
16 Public Works shall provide the board a suitable place to hold meetings
17 and keep records. The commissioner of public works shall designate an
18 employee of the department to serve as executive secretary to the
19 board. He shall devote the time necessary to promote the expeditious
20 conduct of the board's duties and responsibilities.

21 Sec. 35.30.100. EXEMPTIONS. (a) Contracts where compensation to
22 be paid under the contract is less than \$20,000 are exempt from the
23 requirements of this chapter.

24 (b) The board may, on a case-by-case basis, exempt emergency
25 projects from the selection process. A brief statement of the emergency
26 that caused the exemption of any project shall be included in the board's
27 annual report made under sec. 70 of this chapter.

28 (c) This chapter does not apply to the selection of architects,
29 engineers or surveyors for state projects administered by the Department

1 of Highways.

2 Sec. 35.30.110. DEFINITIONS. In this chapter, unless the context
3 requires otherwise

4 (1) "agency" means all officials, departments, and agencies
5 of the state government, including the University of Alaska and the
6 Alaska State Housing Authority;

7 (2) "architect, engineer, or land surveyor" means an archi-
8 tect, engineer, or land surveyor registered to practice under AS 08.48;

9 (3) "board" means the Architects, Engineers, and Land Sur-
10 veyors Selection Review Board;

11 (4) "contracting agency" means the agency administering a
12 contract for architectural, engineering, or land surveying services;

13 (5) "committee" means a selection committee established under
14 sec. 50 of this chapter;

15 (6) "firm" means an architect, engineer, or land surveyor, or
16 a partnership, association, or corporation comprised primarily of
17 architects or engineers or land surveyors registered to practice under
18 AS 08.48;

19 (7) "professional service" means architectural, engineering,
20 or land surveying service;

21 (8) "project" means a construction project using professional
22 services associated with design and construction, alteration, or repair
23 of real property, as well as services incidental to it, including but
24 not limited to studies, investigations, surveys, evaluations, land
25 appraisals, consultations, planning, programming, conceptual designs,
26 plans and specifications, cost estimates, inspections, shop drawing
27 reviews, sample recommendations, preparation of operating and maintenance
28 manuals, and other related service;

29 (9) "user agency" means the agency which will occupy or use

1 the product of the professional service.

2 * Sec. 2. Nothing in this Act affects the validity or effect of any
3 contract in existence on January 1, 1977.

4 * Sec. 3. AS 35.30.030(2), (3), and (4), 35.30.040, and 35.30.050--
5 35.30.070, enacted in sec. 1 of this Act, take effect January 1, 1977. All
6 other provisions of this Act take effect immediately in accordance with AS
7 01.10.070(c).

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Introduced: 1/23/76
Referred: State Affairs

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 646

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to selection of architects, engineers,
7 and surveyors for state projects; and providing for
8 an effective date."

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

10 * Section 1. AS 35 is amended by adding a new chapter to read:

11 CHAPTER 30. STATE SELECTION OF ARCHITECTS,
12 ENGINEERS, AND SURVEYORS.

13 Sec. 35.30.010. SELECTION REVIEW BOARD. (a) There is in the
14 Department of Public Works an Architects, Engineers, and Land Surveyors
15 Selection Review Board.

16 (b) The board is composed of seven members, appointed by the
17 governor and subject to confirmation by the legislature in joint
18 session. Members shall be appointed as follows:

19 (1) two members must be registered architects appointed by
20 the governor from names submitted by the Alaska chapter of the American
21 Institute of Architects;

22 (2) two members must be registered engineers appointed by
23 the governor from names submitted by the Alaska chapter of the National
24 Society of Professional Engineers;

25 (3) two members shall be appointed by the governor from
26 the general public, neither of whom may be an architect or an engineer
27 or a land surveyor; the public members must possess, due to their
28 education, experience, or vocation, an understanding of and sensitivity
29 to project design or construction;

1 (4) one member must be a land surveyor appointed by the
2 governor from names submitted by the Alaska chapter of the American
3 Society of Professional Land Surveyors.

4 (c) The term of office of board members is two years. Initial
5 appointments within each classification in (b)(1)--(3) of this section
6 shall specify one-year and two-year terms so as to assure the stagger-
7 ing of terms within each classification. If a vacancy occurs on the
8 board, the governor shall appoint a person qualified under the appli-
9 cable provision in (b) of this section to serve the unexpired term.

10 (d) No member of the board or of a firm or joint venture with
11 which he is associated, or in which he has a financial interest, may
12 be barred, because of his board membership, from contracting to serve
13 as an architect, engineer, or land surveyor for a project or from
14 otherwise participating as a consultant or employee on a project.

15 (e) No member of the board may vote on a grievance matter brought
16 by or against him or by or against a firm or joint venture with which
17 he is associated or in which he has a financial interest.

18 Sec. 35.30.020. ORGANIZATION AND MEETINGS OF BOARD. At the
19 first meeting of the members of the board, the board shall elect a
20 chairman. The board shall also elect other officers it considers
21 necessary for the conduct of its affairs. It shall adopt rules
22 governing its operations and the conduct of its meetings. The rules
23 shall provide for the term of the chairman and other officers if any.
24 The board shall meet at least once every six months. In addition, the
25 board may take official action by mail votes or votes during confer-
26 ence telephone calls on reasonable notice to all members. Four members
27 constitute a quorum.

28 Sec. 35.30.030. DUTIES AND POWERS OF THE BOARD. The board shall

29 (1) adopt regulations under the Administrative Procedure

1 Act (AS 44.62) that it finds appropriate to supplement the procedure
2 established by this chapter for architect, engineer, and land surveyor
3 selection;

4 (2) review all selection procedures on a periodic basis;

5 (3) review any grievance related to the selection process
6 and recommend appropriate action to the governor; the board's recom-
7 mendations on grievances are public information;

8 (4) prepare an annual report on architect, engineer, and
9 land surveyor selection and selection grievances.

10 Sec. 35.30.040. REQUIREMENTS FOR PROFESSIONAL SERVICES. (a)
11 Each agency shall make public on at least an annual basis its known
12 present and future construction and planning programs, and its antici-
13 pated requirements for professional services for at least the follow-
14 ing 12-month period.

15 (b) When professional services are required for a specific
16 project, the chief executive officer of the contracting agency shall
17 submit a written notice to the board. The notice shall include a
18 description of the proposed project, its location, the scope of
19 services required, the proposed completion date, and a description of
20 any special requirements or unique features of the proposed project.

21 Sec. 35.30.050. QUALIFICATION OF ARCHITECTURAL, ENGINEERING, AND
22 SURVEYING FIRMS; SELECTION COMMITTEES. (a) The Department of Public
23 Works shall encourage firms engaged in the lawful practice of archi-
24 tecture, engineering, or land surveying to submit at least annually a
25 statement of qualifications. The department shall maintain an up-to-
26 date listing of qualified firms and shall make it available to selec-
27 tion committees formed under this section. The department shall
28 maintain a complete file of all qualified firms who have submitted a
29 statement within the previous two years.

1 (b) When an agency of the state expects to enter into a contract
2 for architectural, engineering, or land surveying services, the chief
3 executive officer of that contracting agency shall appoint two persons
4 from that agency to a three-member selection committee. The chief
5 executive officer of the user agency for the proposed project shall
6 appoint a person from the user agency as the third member of the
7 committee. If it is anticipated that there will be more than one user
8 agency, then the third committee member shall be appointed by the
9 commissioner of administration. Committee members appointed from the
10 Department of Public Works must be employees in the classified service
11 under AS 39.25. The members shall elect a chairman.

12 (c) The committee, upon its appointment, shall make a public
13 announcement of the proposed project which includes a description of
14 the proposed project, its location, the scope of service required, the
15 proposed completion date, and a description of any special require-
16 ments or unique features. The announcement shall invite firms to
17 submit to the committee an application to perform services for the
18 project which may include supplemental descriptions of their firms and
19 statements of qualifications with supporting data as it relates to the
20 proposed project.

21 (d) The committee shall examine all applications from interested
22 firms and certify those firms qualified to perform the services for
23 the project under consideration. Among the factors to be considered
24 in making this finding are the capability, adequacy of personnel, past
25 record, and experience of the firm.

26 (e) In evaluating the firms certified under (d) of this section,
27 the committee shall apply the following criteria, along with other
28 criteria established by administrative regulations of the department
29 if any:

1 (1) specialized experience and design and technical compe-
2 tence of the firm, including a joint venture or association, regarding
3 the type of service required;

4 (2) capability of the firm to perform the work, including
5 any specialized services, within the time limitations;

6 (3) past record of performance on contracts with government
7 agencies and private industry with respect to such factors as control
8 of costs, quality of work, and ability to meet schedules;

9 (4) proximity to and familiarity with the area in which the
10 project is located; and

11 (5) the desirability of selecting the most highly qualified
12 firm; however, the volume of work previously awarded to the firm by
13 the state shall also be considered, with the object of effecting an
14 equitable distribution of contracts among qualified firms and of
15 assuring that the interest of the public in having available a sub-
16 stantial number of qualified firms is protected.

17 (f) After making this review and technical evaluation, the
18 committee shall hold discussions with not less than three of the most
19 highly qualified firms regarding their capability and methods of
20 approach for furnishing the required services. Professional compensa-
21 tion may not be considered in these discussions.

22 (g) The committee shall prepare a public report for submission
23 to the board, recommending, in order of highest qualification, no less
24 than three firms that are considered most highly qualified to perform
25 the required services. This report shall include a statement of the
26 extent of the evaluation and review and the considerations upon which
27 the recommendations were based. If the committee has found under (d)
28 of this section that less than three firms are qualified to perform
29 the services, it shall include in its report the reasons for qualifying

1 less than three. The report shall be made within 45 days after the
2 committee is appointed.

3 Sec. 35.30.060. NEGOTIATIONS. (a) The contracting agency shall
4 conduct negotiations on scope of work and professional compensation
5 initially with the highest ranked firm. If a mutually satisfactory
6 contract cannot be negotiated with that firm, the agency head shall
7 formally terminate the negotiations and notify the firm. Negotiations
8 then shall be initiated with the second-ranked firm and this procedure
9 shall be continued until a mutually satisfactory contract has been
10 negotiated. If negotiations fail with the listed firms, the names of
11 additional firms shall be selected and ranked by the committee and
12 negotiations shall continue in the manner described in this subsection.

13 (b) Upon successfully negotiating a contract with a firm, the
14 agency shall promptly report to the board the results of its negotia-
15 tions, with documentation of the factors affecting any unsuccessful
16 negotiations with higher ranked firms.

17 Sec. 35.30.070. PUBLIC REPORTS. The board shall make a public
18 announcement of the firm selected for each proposed project and shall
19 provide prompt notification to each recommended firm. The board shall
20 issue an annual report summarizing the projects processed during the
21 year and the firms selected to design them. The annual report also
22 shall list each grievance received, give the board's recommendation on
23 the grievance, and state what action was taken in response to the
24 board's recommendation.

25 Sec. 35.30.080. PROHIBITION AGAINST CONTINGENT FEES; MISDEMEANOR.
26 (a) Each contract entered into by an agency for professional services
27 shall contain a prohibition against contingent fees as follows: "The
28 contractor providing professional services warrants that he has not
29 employed or retained any person other than a bona fide employee work-

1 ing solely for the contractor to solicit or secure this agreement, and
2 that he has not paid or agreed to pay any person, other than a bona
3 fide employee working solely for the contractor, any fee, commission,
4 percentage, gift, or any other consideration contingent upon or result-
5 ing from the award or making of this agreement." For a violation of
6 this provision, the agency may terminate the agreement without lia-
7 bility and, in its discretion, may deduct from the contract price, or
8 otherwise recover, the full amount of the fee, commission, percentage,
9 gift or consideration.

10 (b) A public official or other person who offers, agrees, or
11 contracts to solicit or secure a state agency contract for professional
12 services for any other person for a fee, commission, percentage, gift
13 or other consideration contingent upon or resulting from, the award or
14 the making of a contract for professional services, is guilty of a
15 misdemeanor.

16 (c) An architect, engineer, land surveyor, or other person who
17 offers or pays or otherwise furnishes any consideration prohibited in
18 (b) of this section is guilty of a misdemeanor.

19 Sec. 35.30.090. OFFICE, STAFF, AND RECORDS. The Department of
20 Public Works shall provide the board a suitable place to hold meetings
21 and keep records. The commissioner of public works shall designate
22 an employee of the department to serve as executive secretary to the
23 board. He shall devote the time necessary to promote the expeditious
24 conduct of the board's duties and responsibilities.

25 Sec. 35.30.100. EXEMPTIONS. (a) The board may adopt regulations
26 exempting contracts from requirements of this chapter where compensa-
27 tion to be paid under the contract is less than a specified amount to
28 be determined by the board.

29 (b) The board may, on a case-by-case basis, exempt emergency

1 projects from the selection process. A brief statement of the emer-
2 gency that caused the exemption of any project shall be included in
3 the board's annual report made under sec. 70 of this chapter.

4 Sec. 35.30.110. DEFINITIONS. In this chapter, unless the context
5 requires otherwise

6 (1) "agency" means all officials, departments, and agencies
7 of the state government, including the University of Alaska and the
8 Alaska State Housing Authority;

9 (2) "architect, engineer, or land surveyor" means an archi-
10 tect, engineer, or land surveyor registered to practice under AS
11 08.48;

12 (3) "board" means the Architects, Engineers, and Land
13 Surveyors Selection Review Board;

14 (4) "contracting agency" means the agency administering a
15 contract for architectural, engineering, or land surveying services;

16 (5) "committee" means a selection committee established
17 under sec. 50 of this chapter;

18 (6) "firm" means an architect, engineer, or land surveyor,
19 or a partnership, association, or corporation comprised primarily of
20 architects or engineers or land surveyors registered to practice under
21 AS 08.48;

22 (7) "professional service" means architectural, engineer-
23 ing, or land surveying service;

24 (8) "project" means a construction project using professional
25 services associated with design and construction, alteration, or
26 repair of real property, as well as services incidental to it, in-
27 cluding but not limited to studies, investigations, surveys, evalua-
28 tions, land appraisals, consultations, planning, programming, con-
29 ceptual designs, plans and specifications, cost estimates, inspections,

1 shop drawing reviews, sample recommendations, preparation of operating
2 and maintenance manuals, and other related service;

3 (9) "user agency" means the agency which will occupy or use
4 the product of the professional service.

5 * Sec. 2. Nothing in this Act affects the validity or effect of any
6 contract in existence on January 1, 1977.

7 * Sec. 3. AS 35.30.030(2), (3), and (4), 35.30.040, and 35.30.050--
8 35.30.070, enacted in sec. 1 of this Act, take effect January 1, 1977. All
9 other provisions of this Act take effect immediately in accordance with AS
10 01.10.070(c).

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January 23, 1976

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

In accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to selection of architects, engineers and surveyors for state projects.

The purpose of the bill is to assure a fair and open procedure for securing the contract services of these professionals when they are needed for construction projects. By an attachment to this transmittal letter, the objectives of the bill are summarized.

The bill provides for a selection review board composed of two architects, two engineers, one land surveyor and two public members, with appointments of members to be made by the Governor, subject to legislative confirmation. The professional members are to be selected from persons nominated by the affected professional societies.

By the terms of the bill the board would oversee the selection process by:

- (1) adopting regulations to supplement selection procedures set out in the bill;
- (2) reviewing selection procedures periodically;
- (3) reviewing and making a public recommendation to the Governor on any grievance in the selection process; and;
- (4) making an annual report covering (a) the professional selections made, and (b) any grievances processed, with recommendations made as to those grievances and a statement of the action taken on the recommendations.

The bill requires that the need for professional services be advertised. It also establishes procedures for qualifying firms that apply, selecting the best qualified, and reporting on the entire process to the selection review board which then would make a public announcement of the selection and notify the competing firms.

Both offering and accepting a fee contingent upon successfully securing a professional-services contract are made misdemeanors.

By regulation, the board may eliminate small contracts from the selection procedure. Emergency projects also may be exempted from the selection procedure, but a report on the exemption must be included in the board's annual report.

Sincerely,

Jay S. Hammond
Governor

OBJECTIVES OF A/L SELECTION PROCEDURE

STATE AGENCIES

GENERAL PUBLIC.

A/E FIRMS

1. Obtain qualified & competent A/E services
2. Establish uniform, unbiased selection procedure
3. Establish procedure not subject to political or outside pressure
4. Establish procedure convenient and adequate for agency to use

1. Selection to consider all interested and qualified firms
2. Procedure to insure against favoritism or political pressure
3. Procedure to insure competent firm is selected at a fair fee

1. Insure that all interested firms are considered in the selection procedure.
2. Selection based on uniform applications of procedure to evaluate qualifications and competency
3. Provide for investigation and review of alleged irregularities
4. Provide an uncomplicated, easy, adaptable procedure that will not discourage agencies from utilizing an A/E contract

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

Second Session - Ninth Legislature

REVISED: 2/24/76

I. REQUEST

HB Bill No. 646

Title: An act relating the selection of architects, engineers, & surveyors for State projects

Requested by: Francis Ulmer, Governor's Office Date: January 24, 1976

Return Date Requested: As soon as possible.

Agency: Public Works Program: Buildings

II. FISCAL DETAIL

Budget Request Unit(s) Affected: All agencies

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES	8.5	25.5	34.1	37.5	41.2	45.3
200 TRAVEL	17.3	52.0	69.4	76.3	84.0	92.3
300 CONTRACTUAL	1.9	5.7	7.6	8.4	9.2	10.1
400 COMMODITIES	.5	1.4	1.8	2.0	2.2	2.4
500 EQUIPMENT	6.5	-0-				
600 LAND & STRUCTURES	-0-	-0-	-0-			
700 GRANTS, CLAIMS, ETC.:	-0-	-0-	-0-			
TOTAL	29.7 28.8	84.6	112.8	124.2	136.6	150.1

B. FUNDING: (Thousands of dollars)

GENERAL FUND	28.8	84.6	112.8	124.2	136.6	150.1
FEDERAL FUNDS						
OTHER CIP	29.7	84.6	112.8	124.2	136.6	150.1

* C. POSITIONS:

PERMANENT/TEMPORARY	4 /	4 /	4 /	4 /	4 /	4 /
MAN MONTHS (P./T.)	4 /	11 /	15 /	15 /	15 /	15 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Revised by Committee 3/20/76

See attached one page

* Positions indicated are part time permanent positions and could possibly be combined with existing positions.

IV. ATTACHMENTS

V. DATE: January 28, 1976 PREPARED BY:

Robert R. Venusti, Architect

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Assumptions and Calculations *

Amount

Personal Services **

1. Board member's salaries (not covered in bill).	-0-
2. Salaries of committee members, 2 committee members; ½ year per member @ range 21.	\$19,036
3. Executive secretary ½ year, range 19.	\$ 8,215
4. 6 mo. permanent part time Clerk Typist III.	<u>\$ 6,814</u>
Total	<u>\$34,065</u>

Travel & Per Diem

1. Board members - 7 members plus executive secretary - assume 3 meetings per year (one in Juneau, one in Anchorage, one in Fairbanks) with 6 travelers per meeting = 18 tickets @ \$160.00 per ticket. Per diem = (6 people) (3 trips) (5 days) = 90 days.	\$ 2,880 \$ 4,500
2. Committee members - initial evaluation. Assume 1 out of the three members will have to travel on at least half of the number of projects per year (100 projects). Plane tickets 50 x \$160.00 Per diem 50 x 3 days = 150 days @ \$50.00	\$ 8,000 \$ 7,500
3. Committee members - discussions with the three selected firms. Assume one selected firm out of town for each project, two projects discussed at one travel period. (3 people) (50 projects) = 150 tickets @ \$160.00 Per diem (3 people) (3 days) (50 projects) = 450 days @ \$50.00.	\$24,000 <u>\$22,500</u>
Total	<u>\$69,380</u>

Contractual Services

Telephone \$200.00 per month	\$ 2,400
Postage and transportation of things \$100.00 per mo.	\$ 1,200
Advertising, public notices (\$20.00) (100 projects)	\$ 3,000
Printing and distribution of annual report.	<u>\$ 1,000</u>
Total	<u>\$ 7,600</u>

Commodities

Paper and office supplies \$150.00 per mo.	\$ 1,800
Total	<u>\$ 1,800</u>

Equipment for typist

Typewriter, desk, chair, file cabinet.	\$ 1,475
Total	<u>\$ 1,475</u>

* All calculations based on 100 projects per year.

** Salaries include benefits.

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

Second Session - Ninth Legislature

REVISED: 2/24/76

I. REQUEST

HB Bill No. 646

Title: An act relating to the selection of architects, engineers, & surveyors for State projects

Requested by: Francis Ulmer, Governor's Office Date: January 26, 1976

Return Date Requested: As soon as possible.

Agency: Public Works Program: Buildings

II. FISCAL DETAIL

Budget Request Unit(s) Affected: All agencies

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES	8.5	25.5	34.1	37.5	41.2	45.3
200 TRAVEL	17.3	52.0	69.4	76.3	84.0	92.3
300 CONTRACTUAL	1.9	5.7	7.6	8.4	9.2	10.1
400 COMMODITIES	.5	1.4	1.8	2.0	2.2	2.4
500 EQUIPMENT	1.5	-0-				
600 LAND & STRUCTURES	-0-	-0-	-0-			
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-			
TOTAL	29.7	84.6	112.8	124.2	136.6	150.1

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER CIP	29.7	84.6	112.8	124.2	136.6	150.1

* C. POSITIONS:


PERMANENT/TEMPORARY	4 /	11 /	15 /	15 /	15 /	15 /
MAN MONTHS (P./T.)	4 /	11 /	15 /	15 /	15 /	15 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached one page

* Positions indicated are part time permanent positions and could possibly be combined with existing positions.

IV. ATTACHMENTS

V. DATE: January 28, 1976 PREPARED BY: 

Robert R. Venusti, Architect

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)