

5/23/75

COMMITTEE REPORT

HOUSE

Mr. Speaker:

Date March 26 1976

The Committee on FINANCE has had SB 415

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 _____ AND THAT

CS FOR _____ DO PASS

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

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

| | | |
|--------------------|----------------------|-------|
| <u>[Signature]</u> | <u>[Signature]</u> | _____ |
| <u>[Signature]</u> | <u>15/ W. Malone</u> | _____ |
| <u>[Signature]</u> | _____ | _____ |
| <u>[Signature]</u> | _____ | _____ |

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

15/ W. Malone Chairman

A M E N D M E N T

OFFERED IN THE HOUSE:

By: FINANCE COMMITTEE

To: _____ HOUSE BILL No. _____

SENATE BILL No. 115

PAGE: - 1 -

LINE: 16

Strike "\$2,500"

Insert "\$10,000"

Introduced: 5/2/75
Referred: State Affairs

1 IN THE SENATE

BY ZIEGLER

2 SENATE BILL NO. 415

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to bonds required in public construc-
7 tion."

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

9 * Section 1. AS 36.25.010(a) is amended to read:

10 (a) Before a contract exceeding ^{10,000 (or more)} \$2,000 for the construction,
11 alteration, or repair of a public building or public work of the state
12 or a political subdivision of the state is awarded to a general or
13 specialty contractor, the contractor shall furnish to the state or a
14 political subdivision of the state the following bonds, which become
15 binding upon the award of the contract to that contractor:

16 (1) a performance bond, which may be a cash bond or a surety
17 bond, with a corporate surety qualified to do business in the state, or
18 at least two individual sureties who shall each justify in a sum equal
19 to the amount of the bond; the amount of the performance bond shall be
20 equivalent to the amount of the payment bond;

21 (2) a payment bond, which may be a cash bond or a surety
22 bond, with a corporate surety qualified to do business in the state, or
23 at least two individual sureties who shall each justify in a sum equal
24 to the amount of the bond for the protection of all persons who supply
25 labor and material in the prosecution of the work provided for in the
26 contract; when the total amount payable by the terms of the contract is
27 not more than \$1,000,000, the payment bond shall be in a sum of one-half
28 the total amount payable by the terms of the contract; when the total
29 amount payable by the terms of the contract is more than \$1,000,000 and

1 not more than \$5,000,000, the payment bond shall be in a sum of 40 per
2 cent of the total amount payable by the terms of the contract; when the
3 total amount payable by the terms of the contract is more than \$5,000,000,
4 the payment bond shall be in the sum of \$2,500,000.
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MEMO March 25, 1976
FROM SENATOR ZIEGLER
TO REPRESENTATIVE MALONE
RE SB 415

Hugh--Sometimes the small contractor, just starting out, finds it extremely difficult under the existing provisions of the bonding requirements where public construction is concerned. Obtaining a surety bond can be a vexatious and time consuming problem.

If a general or special contractor can post a cash bond in lieu of a surety bond, it is difficult to see how anyone can be hurt.

Attached hereto is a copy of a letter received from the Ketchikan City Attorney concerning an individual in Ketchikan who was prepared to post a cash bond and was ready to go to work, but was unable so to do by virtue of the existing surety bond with a corporate security limitation and/or restriction.

RHZ/pkz

enc.



CITY OF KETCHIKAN

334 FRONT STREET

P. O. BOX 1110 — KETCHIKAN, ALASKA 99901

TELEPHONE 907 225-3111

4-25

24 April 1975

Senator Robert H. Ziegler
Pouch V
State Capitol
Juneau, Alaska 99801

Dear Bob:

The Council has asked that I write to you indicating their displeasure with the mandatory requirements of Alaska Statute 36.25.010 which provides as follows: "Bonds of contractors for public buildings or works. (a) Before a contract exceeding \$2,000 for the construction, alteration, or repair of a public building or public work of the state, or a political subdivision of the state is awarded to a general or specialty contractor, the contractor shall furnish to the state or a political subdivision of the state the following bonds, which become binding upon the award of the contract to that contractor:

- (1) a performance bond with a corporate surety qualified to do business in the State, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond; the amount of the performance bond shall be equivalent to the amount of the payment bond;
- (2) a payment bond with a corporate surety qualified to do business in the State, or at least two individuals sureties who shall each justify in a sum equal to the amount of the bond for the protection of all persons who supply labor and material in the prosecution of the work provided for in the contract;"

Mr. Rex Lauber, who represents Ahead Landscaping, was the low bidder for a local improvement in the City of Ketchikan which bid specifications required a performance and payment bond as made mandatory by State statutes. I have enclosed a copy of a memorandum which was given to the City Council at their April 17th, 1975, council meeting. Mr. Lauber obviously had to forfeit the bid bond in the amount of \$1,198.00 since he could not supply a performance and/or payment bond. As indicated, Mr. Lauber did try to obtain a cash bond, but even a cash bond would not be specifically authorized by the statutes. The biggest problem perhaps is the general tightening of the corporate surety bond market for an individual just trying to get started.

Senator Robert H. Ziegler

24 April 1975

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Some leeway should be permitted in the form of permitting a cash bond under similar terms and conditions for which a performance or payment bond would be required if a municipality elected to operate in that manner. Frankly, cash bonds with appropriate forfeiture provisions would be much simpler to utilize than a performance and payment bond by a corporate or two individual sureties.

If you have any thoughts or a proposed amendment that would permit more flexibility, I am sure the mayor and council would appreciate them. Perhaps one procedure to follow would be to submit such a proposed amendment through the Municipal League for input by other municipalities.

Yours very truly,



EDWARD A. STAHLA
City Attorney

cc: The Honorable Mayor & Council

MEMORANDUM

APRIL 8, 1975

TO : MR. N. L "Pat" TEAGUE, CITY MANAGER
FROM: EDWARD A. STAHLA, CITY ATTORNEY
RE : BID BY AHEAD LANDSCAPING (REX LAUBER)
HARBORMASTER BUILDING.

Rex Lauber indicated he was unable to obtain corporate performance and payment bond on the above bid. Mr. Lauber indicated that he has been turned down locally and that he also made a trip to Seattle in an attempt to obtain necessary bonds as set out in contract specifications but was unable to do so.

Inasmuch as statutory language mandates a performance and payment bond with a corporate surety qualified to do business in the state, or at least two individual sureties, and since Mr. Lauber is unable to furnish either a corporate or at least two individual sureties, the bid bond should be forfeited.

Mr. Lauber has pursued the possibility of obtaining a cash bond under the same terms and conditions as the performance and payment bond as set out in the contract documents, and has also indicated he would not know who to turn to obtain personal individual sureties, since the statutes are mandatory and since the surety requirements were included within the bid specifications and were accepted by the Council the contract should not be altered. The contract procedure as I recall was that if the bidder is not able to live up to the offer that was accepted, he forfeits the bid bond. The city would then be in a position to accept the next lowest bid or reject all bids and readvertise.

I initially felt that perhaps the city could give Mr. Lauber some leeway, but after pursuing many alternatives and considering the total circumstances it doesn't appear that way.

EAS:sf



Hales & Son, General Contractors

5501 Little Tree / Anchorage, Alaska 99507 / (907) 344-5891

September 11, 1975

Senator Robert Ziegler, Sr.
P. O. Box 979
Ketchikan, Alaska 99901

Re: General Contractor
Bonding Requirements

Dear Sir:

We hope by means of this letter to make you aware of some of the prejudices and inequalities associated with bonding requirements which, we feel, are specifically directed toward the small general contractor.

I trust you are aware bonding is required on all governmental construction projects over \$2,000. Bonding supposedly insures a well-completed construction job according to the agreed contract, as well as provides some recourse to the client if a job is unsatisfactory or is not completed for one reason or another. Our complaints are directed not at the "reason" for bonding but rather at the stringent bonding "requirements" imposed by the insurance companies:

1. Since both bonding and insurance are usually obtained through the same channels, the large general contractor is favored over the small general contractor because of the volume of "business" generated.
2. When the bonding company analyzes the financial assets of the larger contracting company as compared with the small general contractor, we run foul again.
3. Bonding companies are able to dictate amounts of the bids by refusing larger amounts of bonding---particularly to the small contractor.
4. Due to the above-mentioned factors imposed by the insurance companies, state and federal agencies do not receive a fair or true figure because the small contractor is eliminated; thus the agency pays more for a construction job.

We, as a small general contractor, can offer fair competition to the larger companies at the bid table. Our problem is in obtaining the necessary bonding under the present requirements.


Sen. Robert Ziegler, Sr.
Re: General Contractor
Bonding Requirements

Page two
September 11, 1975

We would suggest that a standard of equality be considered. Bonding requirements should include past performance, structural value of the company, established credit reputation, general work quality and ability to prove that a job can be done at the prices quoted. We do not have all the answers, but would invite a special committee to investigate the inequalities aforementioned and submit solutions to the existing problems. If the present trend continues, we fear the small general contractor will be non-existent. The American free enterprise system will belong exclusively to the large general contractors where "construction" is concerned.

Sincerely,

HALES & SONS, INC.



W. B. Hales
President

WBH:jo

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

JAY S. HAMMOND, GOVERNOR

DIVISION OF RETIREMENT & BENEFITS PUBLIC EMPLOYEES' &
TEACHERS' RETIREMENT SYSTEMS, HEALTH INSURANCE, DEFERRED
COMPENSATION, GOVERNMENT SOCIAL SECURITY PROGRAM

POUCH CR - JUNEAU 99811
PHONE (907) 465-4410

January 22, 1976

The Honorable Chancy Croft
State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Croft:

I have reviewed the provisions of Senate Bill #547 relating to fractional service credit and military service under the Teacher's Retirement System.

The bill as drafted will resolve the technical errors and possible discriminatory language which was contained in Senate Bill #380 which was vetoed by the Governor last year. Attached is the fiscal note which indicates that the only costs involved are \$5,400 for administrative expenses needed to implement this legislation.

If you have any further questions I would appreciate hearing from you.

Sincerely,



Robert S. Gates
Director
Division of Retirement & Benefits

RSG/jw

Attachment

The Legislature of the State of Alaska
FISCAL NOTE
Second Session - Eighth Legislature

I. REQUEST

Bill Identification: Senate Bill 547
 Title: An act relating to teacher's retirement credit for military & fractional service
 Requested by: Senate Finance Date: January 19, 1976
 Return Date Requested: as soon as possible
 Agency: Administration-Retirement Program: TRS

II. FISCAL DETAIL

Budget Request Unit(s) Affected: TRS

A. EXPENDITURES: (Thousands of dollars)

| OBJECT | FY 76 | FY 77 | FY 78 | FY 79 | FY 80 | FY 81 |
|--------------------------|----------|------------|----------|----------|----------|----------|
| 100 PERSONAL SERVICES | 0 | 5.4 | 0 | 0 | 0 | 0 |
| 200 TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| 300 CONTRACTUAL | 0 | 0 | 0 | 0 | 0 | 0 |
| 400 COMMODITIES | 0 | 0 | 0 | 0 | 0 | 0 |
| 500 EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| 600 LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| 700 GRANTS, CLAIMS, ETC. | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 5.4 | 0 | 0 | 0 | 0 |

B. FUNDING: (Thousands of dollars)

| | | | | | | |
|---------------|---|-----|---|---|---|---|
| GENERAL FUND | 0 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 5.4 | 0 | 0 | 0 | 0 |

C. POSITIONS:

| | | | | | | |
|---------------------|-----|-----|-----|-----|-----|-----|
| PERMANENT/TEMPORARY | 0/0 | 0/1 | 0/0 | 0/0 | 0/0 | 0/0 |
| MAN MONTHS (P./T.) | 0/0 | 0/4 | 0/0 | 0/0 | 0/0 | 0/0 |

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

1. If this Bill is passed it will necessitate additional administrative costs only.

2. Personal services - one temporary position - Accountant II (Range 14) for a 4-month period:

Monthly salary \$1,265 x 4 = \$5,060
 Plus 7 1/4% benefits 367
\$5,427

IV. ATTACHMENTS

V. DATE: January 19, 1976

PREPARED BY: 

Robert S. Gates, Director
Division of Retirement & Benefits

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