

HB

766

OK Mike Singer 4955
Richard Frank 2515

RED ELIASON

PRO

ANNETTE Smith H CPA

LEE SCHARP C+B Luncheon

CON

CK Dawson/2 CARSON
AQO



Oxford Pentaflex

STOCK No. 753 1/3

MADE IN U.S.A.

Original sponsor: Eliason

Offered: 5/25/78
Referred: Rules

1 IN THE HOUSE

BY THE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 766

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing home rule and general law municipi-
7 palities to exempt contractors from certain bond re-
8 quirements in the construction or repair of public
9 works projects."

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

11 * Section 1. AS 36.25 is amended by adding a new section to read:

12 Sec. 36.25.025. OPTIONAL MUNICIPAL EXEMPTION. A municipality, by
13 ordinance adopted by its governing body, may exempt ^{individual} contractors from
14 compliance with the provisions of sec. 10(a) of this chapter if the
15 estimated cost of the project does not exceed \$400,000, and

16 (1) the contractor is, and for two years immediately pre-
17 ceding the award of the contract has been, a licensed contractor having
18 his or its principal office in the state;

19 (2) the contractor certifies that he has not defaulted on a
20 contract awarded to him during the period of three years preceding the
21 award of a contract for which a bid is submitted;

22 (3) the contractor submits a financial statement, prepared
23 within a period of nine months preceding the submission of a bid for the
24 contract and certified by a public accountant or a certified public
25 accountant licensed under AS 08.04, demonstrating that the contractor
26 has a net worth of not less than 20 per cent of the amount of the con-
27 tract for which a bid is submitted; and

28 (4) the total amount of all contracts which the contractor
29 anticipates performing during the term of performance of the contract

128 SH

*General Industry stds -
rec. by R. Block
(Dir of Inv)*

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for which a bid is submitted does not exceed the net worth of the contractor reported in the certified financial statement prepared and submitted under (3) of this subsection by more than seven times.

* Sec. 2. AS 29.13.100 is amended by adding a new paragraph to read:

(38) AS 29.48.130(a)(12) (municipal exemption on contractor bond requirements)

* Sec. 3. AS 29.48.130(a) is amended by adding a new paragraph to read:

(12) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects within the limitations set out in AS 36.25.025.

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES



REPRESENTATIVE RICHARD I. ELIASON

P.O. BOX 143
SITKA, ALASKA 99835

WHILE IN JUNEAU
FOUCH V
JUNEAU, ALASKA 99811

MINORITY WHIP

COMMITTEES
RESOURCES
JUDICIARY

TO: All Senators
Alaska State Legislature

FROM: Representative Dick Eliason

DATE: May 30, 1978

SUBJECT: House Bill 766

The intent of House Bill 766 is to permit municipalities to exempt contractors from existing bonding requirements for local public works projects. This would have to be done by ordinance of the local government.

The effect would be to enable small, local contractors, who do not have the financial capability to meet current bonding requirements, to secure public works contracts. At present, many small contracts on local projects go to larger firms outside the local area, often from outside the state. The result of such exemptions being available would be to provide additional work for local firms and for local labor. In addition, it would often bring in lower contract prices, simply because of a contractor having equipment and people in the area.

Contracts could be let, and exemptions granted at the discretion of local officials, who usually are acquainted with local contractors and know of their reputations, integrity and capabilities. The contractors in question live and work in the local communities, but have increasing difficulty getting work because of financial and bonding requirements.

There is protection built into the contracting situation with the retained percentage system, under which the municipality pays for a contract incrementally as work is satisfactorily completed. Additionally, municipalities have the option of granting front money for local contractors by way of paying for or underwriting costs of shipping materials and equipment when necessary.

There is no significant opposition to the measure. The law would help to restore a measure of local autonomy to the municipalities.

A Senate amendment to the bill would provide for an upper limit of \$400,000 on such contracts, probably a more realistic level than the originally-proposed ceiling of \$250,000.

108 827
766 conditions

5-22

provided that:

1) the contractor is, and for two years immediately preceeding the award of the contract has been, a licensed contractor having its principal offices in the state.

2) the contract^s submits a financial statement as of no earlier than nine months prior to submitting the bid for contract, certified by ~~a~~ ^{an} ~~certified~~ ^{licensed by the state} public accountant^s showing:

- (a) a net worth of no less than 20% of the face amount of the contract;
- (b) the contractor has not defaulted on any contract awarded in him the last three years;

3) the total amount of all contracts being performed by the contractor during the term of the subject contract being awarded under this statute, does not exceed seven times the net worth of the contractor.

\$ 400 K

SENATE COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE MEETING

May 23, 1978

Present: Senators Orsini, Hackney, Willis and Ferguson; Tom Singer, House Permanent Fund; Pat Conheady, DNR; Annette Smith, House C&RA; Jack Chenoweth, Legislative Affairs Agency, Royce Weller, Hugh Malone's Staff; Representative Dick Eliason, Richard Engen, Division of State Libraries and Museums.

Absent: Senator Sumner

The bills before the Committee were CS HB 133, HB 766 and SB 580. The meeting was called to order at 3:08.

SENATE BILL 580

Richard Engen, Division of State Libraries and Museums, stated that this bill would increase the present grant and aid program for assistance to the Public Libraries Association throughout the state from \$250 a year on a reimbursable basis to a \$500 grant for purchase of library materials.

He stated that it eliminates much of the paper work now required by statute. He explained that his office has to submit invoices on a reimbursable basis and this would be eliminated through the grant provision of the bill. He also stated that the bill removes the restriction from purchasing religious materials which is in the original statutes.

Senator Hackney moved to increase the \$500 grant amount to \$1,000. There were no objections. Senator Hackney then moved to pass the bill out with a "DO PASS" recommendation.

HOUSE BILL 766

Chairman Orsini went through the proposed recommendations for the bill. He stated that there was a CS for increasing the \$250,000 to \$400,000 and adding certain conditions to the increase.

Representative Eliason stated that the bill was introduced at the request of the borough Administrator of Sitka. He stated that small contractors in rural areas and smaller communities of the state who have ample equipment and the experience to handle a number of municipal jobs are falling short of other contractors from out of the community and even out of the state because of the difficulty in establishing a bond.

Senator Ferguson moved that the Committee adopt a CS for HB 766 including the recommendations by Chairman Orsini and pass it out with "INDIVIDUAL RECOMMENDATIONS".

CS FOR HOUSE BILL 133

Jack Chenoweth, Legislative Affairs Agency, went over the proposed committee substitute for CS HB 133 and explained section by section

Senate C&RA Meeting
Page Two
May 23, 1978

SB 580, HB 766
CSHB 133

changes in the bill and new language that had been put into it. As a result of committee discussion, a revised work draft of the proposed committee substitute was requested.

Chairman Orsini stated that CSHB 133 would be scheduled for Committee action Thursday.

The meeting was adjourned at 4:00.

5/23/78

NO 766

Sitka wants the bill -

small contractors losing jobs to out-of-area
contractors, have trouble establishing a bond

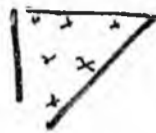
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7/7

~~Fed Excess trust lands \$10-12,000,000~~

~~Straight indemnities~~



CS HRB-827 Jennings

Surety Guarantee

(continued w/ (e) Hole)

4/10 re. special note

of Alaska

re deposit note for same

DOT + Admin.

contracts - very expensive.

Constructing power

shifting the risk to state.

\$100	contract	=	47	contract	and	\$250,000
\$5	million	=	53	"	over	

Wagner
Carr

En Ch House Finance
or House Commerce -

M Jennings participation of Subcontracted
similar

Lowest bid - AS 35.15.050
AS 37.05240

IN THE HOUSE

BY THE COMMERCE COMMITTEE

CS FOR HOUSE BILL 827

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: " An Act relating to the bonding requirements for public works contracts".

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

*Section 1. AS 36.25.010 is amended by adding the following subsections:

(d) Notwithstanding any other provisions of this section, the state or a political subdivision of the state other than municipalities shall waive the bond requirement for contracts of up to \$500,000, provided all of the following conditions are met:

(1) The contractor has been unable to secure a bid, performance, or payment bond, and provides the names of the sureties who have denied him bonding, and documentation of the reasons for that denial

(2) the contractor is, and for ^{two} ~~three~~ years immediately preceeding the award of contract has been, a licensed contractor having its principal offices in the state;

(3) the contractor provides the following information:

- (a) the class of construction in which he specializes,
(b) the size of jobs he feels best qualified to handle,
(c) the work he completed in each of the past three years,
(d) the largest work load carried at any one time, and
(e) a list of the largest jobs he has completed, including
- (1) amount of contract
 - (2) types and location of work
 - (3) owner's name and address
 - (4) year completed

the contract is of similar work to that usually performed by the contractor

(4) the contract is for construction, alteration, repair, or maintenance of buildings or improvements and requires the performance of substantially all work by the contractor utilizing his own tools, equipment, and employees, and requires the contractor to use no subcontractors;

²
(5) the contractor submits a financial statement as of no earlier than nine months prior to submitting the bid for the contract, certified by a certified public accountant showing:

(a) a net worth of no less than 20% of the face amount of the contract;

(b) a profit from contracting operations for at least the year preceding the award of the contract, and for two of the last three years preceding the award of the contract;

(c) the contractor has not defaulted on any contract awarded him in the last three years:

³
(6) the total amount of all contracts being performed by the contractor during the term of the subject contract, including the contract being awarded under this statute, does not exceed seven times the net worth of the contractor:

(7) the state, or political subdivision of the state, establishes a disbursement procedure wherein:

(a) funds are disbursed in periodic progress payments relating to the amount of work performed to date of disbursement;

(b) no less than ten percent of each disbursement is withheld.

WORK DRAFT COPY WORK DRAFT COPY
to the end of the contract to assure completion of the contract,
and

(c) the state or political subdivision of the state performs such audits and requires such lien releases as is appropriate to assure payment of all employers of and suppliers to the contractor.

(e) A municipality, by ordinance adopted by its governing body, may exempt contractors from compliance with the provisions of (a) of this section. The contractor shall be subject to the provisions of (d) of this section.

* Section 2. AS.37.05.220(8) is amended as follows:

(8) prescribe standard forms for bids and contracts for construction, purchase of supplies, and other purposes, which bids and contracts may contain provisions which the department considers necessary; but all contracts for construction shall require the filing of an acceptable performance bond and a penalty provision for failure to perform the contract according to its terms, except as provided in AS.36.25.010(d) and (e).

*Section 3. AS 29.13.100 is amended by adding a new paragraph to read:

(38) AS 29.48.130(a)(12) (municipal exemption on contractor bond requirements).

*Section 4. AS29.48.130(a) is amended by adding a new paragraph to read:

(12) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects in the manner authorized by AS36.25.010(e).

Agency
terms, hard to turn around to mkt terms

Agencies have no bottom line
indy corps do. Can measure eff.
performance with ind corp.

Each Agency

Pub. expect, indy. ^{miss influence} PF - ^{all st.} ~~concern~~
\$900M - pub. visibility to bureau & ^{all st.}
→ Content change for admin of loan
mgt is \$80M - ^{all st.} ~~ind~~ ^{PF} ~~term~~

- Tves: want public to
know who responsible
for MR in PF, issue of
responsibility - ^{all st.} ~~concern~~
invest officer +
regulatory ^{all st.} ~~concern~~ - clear
responsibility
Confused if ^{all st.} ~~concern~~

- History of some loan losses
- ^{all st.} ~~concern~~ of agencies to help - easier than
indy. ^{all st.} ~~concern~~ - ^{all st.} ~~concern~~ (policy in ^{all st.} ~~concern~~)

Program Agents

- Long history of pooled
lending out of Tves.
it other than what is
to personal benefit - why
should not get up to Com of Fed.
no legal. vrs on policy
guidelines -

- Performance of Tves. on ^{all st.} ~~concern~~
invest ^{all st.} ~~concern~~ ^{all st.} ~~concern~~ ^{all st.} ~~concern~~
officer of ^{all st.} ~~concern~~ ^{all st.} ~~concern~~ ^{all st.} ~~concern~~
pay ^{all st.} ~~concern~~ ^{all st.} ~~concern~~ ^{all st.} ~~concern~~
this stature - must buy competence
- Right now Tves. overhauling
cash ^{all st.} ~~concern~~ ^{all st.} ~~concern~~ ^{all st.} ~~concern~~

policy in public shop, risk of influence pulling
none in ^{all st.} ~~concern~~

Lowest bid - AS 35.15.050
AS 37.05.240

IN THE HOUSE

BY THE COMMERCE COMMITTEE

CS FOR HOUSE BILL 827

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: " An Act relating to the bonding requirements for public works contracts".

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

*Section 1. AS 36.25.010 is amended by adding the following subsections:

(d) Notwithstanding any other provisions of this section, the state or a political subdivision of the state other than municipalities shall waive the bond requirement for contracts of up to \$500,000, provided all of the following conditions are met:

(1) The contractor has been unable to secure a bid, performance, or payment bond, and provides the names of the sureties who have denied him bonding, and documentation of the reasons for that denial

(2) the contractor is, and for three years immediately preceding the award of contract has been, a licensed contractor having its principal offices in the state;

(3) the contractor provides the following information:

- (a) the class of construction in which he specializes,
 (b) the size of jobs he feels best qualified to handle,
 (c) the work he completed in each of the past three years,
 (d) the largest work load carried at any one time, and
 (e) a list of the largest jobs he has completed, including
- (1) amount of contract
 - (2) types and location of work
 - (3) owner's name and address
 - (4) year completed

the contract is of similar work to that usually performed by the contractor

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(4) the contract is for construction, alteration, repair, or maintenance of buildings or improvements and requires the performance of substantially all work by the contractor utilizing his own tools, equipment, and employees, and requires the contractor to use no subcontractors;

(5) the contractor submits a financial statement as of no earlier than nine months prior to submitting the bid for the contract, certified by a certified public accountant showing:

(a) a net worth of no less than 20% of the face amount of the contract;

(b) a profit from contracting operations for at least the year preceding the award of the contract, and for two of the last three years preceding the award of the contract;

(c) the contractor has not defaulted on any contract awarded him in the last three years:

(6) the total amount of all contracts being performed by the contractor during the term of the subject contract, including the contract being awarded under this statute, does not exceed seven times the net worth of the contractor:

(7) the state, or political subdivision of the state, establishes a disbursement procedure wherein:

(a) funds are disbursed in periodic progress payments relating to the amount of work performed to date of disbursement;

(b) no less than ten percent of each disbursement is withheld.

to the end of the contract to assure completion of the contract;
and

(c) the state or political subdivision of the state performs such audits and requires such lien releases as is appropriate to assure payment of all employers of and suppliers to the contractor.

(e) A municipality, by ordinance adopted by its governing body, may exempt contractors from compliance with the provisions of (a) of this section. The contractor shall be subject to the provisions of (d) of this section.

* Section 2. AS.37.05.220(8) is amended as follows:

(8) prescribe standard forms for bids and contracts for construction, purchase of supplies, and other purposes, which bids and contracts may contain provisions which the department considers necessary; but all contracts for construction shall require the filing of an acceptable performance bond and a penalty provision for failure to perform the contract according to its terms, except as provided in AS.36.25.010(d) and (e).

*Section 3. AS 29.13.100 is amended by adding a new paragraph to read:

(38) AS 29.48.130(a)(12) (municipal exemption on contractor bond requirements).

*Section 4. AS29.48.130(a) is amended by adding a new paragraph to read:

(12) exempt contractors from compliance with general requirements relating to payment and performance bonds in the construction or repair of municipal public works projects in the manner authorized by AS36.25.010(e).

SEE CSAB 827

HB
F: 766

RICHARD X 2515
BANK

The State, or a political subdivision of the State, may award a contract of up to \$200,000 without the requirement of bond, provided all of the following conditions are met:

* (1) The contractor is, and for ^{2 years} ~~five years~~ immediately preceding the ~~award of contract has been~~, a licensed contractor having its principal offices in the state;

* (2) The contract is for alteration, repair or maintenance of existing buildings or improvements and requires the performance of substantially all work by the contractor utilizing his own tools, equipment and employees, and requires the contractor to use no sub-contractors.

(3) The contractor has a financial statement as of no earlier than nine months prior to submitting the bid for the contract, certified by a certified public accountant showing:

(a) a net worth of no less than 20% of the face amount of the contract;

(b) A profit from contracting operations for at least both of the last two fiscal years preceding the award of the contract, and for at least three of the last five years preceding the award of the contract;

(c) The contractor has not defaulted on any contract awarded him in the last three years.

(4) The contractor provides evidence that he has fully performed contracts of similar work in the state in both of the last two years preceding the award of the contract.

(5) The total amount of all contracts being performed by the contractor during the term of the subject contract, including the contract being awarded under this statute, does not exceed seven times the net worth of the contractor.

6) The State, or political subdivision, awarding the contract has received bids from at least three other contractors, whose bids are accompanied by a bid bond or who meet the qualifications of this subsection, and the successful contractor's bid is not less than 10% lower than the average of all bids on the same job

* 7) The State, or political subdivision, establishes a disbursement procedure wherein:

(a) funds are disbursed in periodic progress payments relating to the amount of work performed to date of disbursement;

(b) No less than 10% of each disbursement is withheld to the end of the contract to assure completion fo the contract; *aw*

(c) the State or political subdivision performs such audits and requires such lien releases as is appropriate to assure payment of all employers of and suppliers to the contractor.

766 conditions

provided that:

- 1) the contractor is, and for two years immediately preceeding the award of the contract has been, a licensed contractor having its principal offices in the state.
- 2) the contract submits a financial statement as of no earlier than nine months prior to submitting the bid for contract, certified by a certified public accountant showing:
 - (a) a net worth of no less than 20% of the face amount of the contract;
 - (b) the contractor has not defaulted on any contract awarded ~~to~~ him the last three years;
- 3) the total amount of all contracts being performed by the contractor during the term of the subject contract being awarded under this statute, does not exceed seven times the net worth of the contractor.

\$ 400 K

Lee Sharp - June

AGE

Fairbank

中國

Audrey

→ Only num. cap. control -
or cost in num. pdg.

Commerce

中國

→ Chaworth

Lee Sharp
OFF RECORD

Jim Whitefield opposed
to union

Planning Projects
no restriction

May Projects

25/40,000 No.
total of projects under
\$ 250,000

5-9-78

NOTE FOR HB 766 FILE

Would provide for bonding exemption for smaller construction companies in small communities where these companies cannot afford paperwork involved in qualifying for such bonding.

Sponsor Eliason.

(CSHB 827, Gruening, however, might provide better safeguards for small communities since it would exempt small contractors for up to \$500,000 if those contractors could meet certain conditions-- such as not having defaulted over the past three years.)

The Southeastern Conference ^{conf} has recommended that another approach could also deal with the problem. That would be through "personal assurity" which is comparable to co-signing a mortgage note.

Richard Block, state insurance, provided much input to HB 766 and to CSHB 827 which he said has received a more careful going over.

Other possible contacts: George Easley and Mike Miller of Dawson insurance.

The bonding requirements dealt with by the bill concern performance bonds.

bfn

5-10-78

NOTE FOR HB 766 FILE

Rep. Eliason said that the bill was requested by the Sitka City Manager and supported by the AML.

He said there was the possibility of AFL-CIO opposition because of labor belief that local companies are greater hirers of non-union labor.

He does not believe this to be the case and is ready to indicate evidence for this in committee hearings.

Eliason believes also that the \$250,000 ceiling on the bonding exemption would mean that only small companies in rural areas would be affected. He thinks that Anchorage, Fairbanks, Juneau, and Ketchikan would not have projects falling within that monetary range.

He was not supportive of the concepts in HB 827 which would list a number of conditions which a small contractor would first have to meet to qualify for the bonding exemption. He said that these conditions amount to three pages of requirements and would be onerous.

bfh