

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 546  
Title STATE CONTRACTS FOR PROFESSIONAL SERVICES  
Requested by A. STURGELEWSKI Date 5/6/82

II. FISCAL DETAIL

Agency Affected DEPT OF TRANSPORTATION & PUBLIC FACILITIES  
Program Category Affected TRANSPORTATION  
BRU, Program, Or Subprogram(s) Affected ALL  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	0	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	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

The intent of this bill is to invoke legal guidelines for the selection of and negotiation of Professional Services agreements. We are advised that the bill is intended to allow the use of DOT/PF Contracting Policies and Procedures as they now exist. Provided that the final bill reflects existing procedures, there will be no financial impact.

IV. DATE 5/5/82 PREPARED BY R. S. Armstrong  
AGENCY Dept. of Transportation & Public Facilities  
Original: Legislative Finance PHONE 465-3900  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill 546 (Judiciary)  
Title Relating to contracts for professional services  
Requested by State Affairs Date 4-05-82

II. FISCAL DETAIL

Agency Affected All  
Program Category Affected All  
BRU, Program, Or Subprogram(s) Affected All  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	700.0	756.0	816.5	881.8	952.3	1,028.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	700.0	756.0	816.5	881.8	952.3	1,028.5

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	700.0	756.0	816.5	881.8	952.3	1,028.5
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

(\$50 per ad) x (3 ads) x (3 papers - Juneau, Anchorage, Fairbanks)  
2,000 contracts less - (\$100,000 spent in FY 81) less \$100,000 for  
Sole Source Contracts.

\$700,000

This is not a request for funds. This analysis indicates the estimated fiscal impact which will have to be absorbed by all State agencies.

IV. DATE 4-09-82 PREPARED BY George Elgee *Smith*  
AGENCY Administration  
Original: Legislative Finance PHONE 465-2250  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)  
33-001 (Rev. 12/81)

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

4/5/82

Date: \_\_\_\_\_

Mr. Speaker: (Taken from Rules - Finance referral added 4/5/82)

The Committee on FINANCE has had HB 546

"An Act relating to state contracts for professional services and establishing a penalty for violation of provisions of law relating to professional service contracts; and providing for an effective date."

under consideration and reports it back as follows:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

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CHAIRMAN

COMMITTEE REPORT

HOUSE

4/5

FURTHER:

Rules

(7)

3/5/82

Date:

Apr. 5, 1982

Mr. Speaker:

The Committee on JUDICIARY has had HB 546

"An Act relating to state contracts for professional services and establishing a penalty for violation of provisions of law relating to professional service contracts; and providing for an effective date."

under consideration and-(a-majority-of-the-committee)-(the-committee)-- reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 546 (Jud) [X] same title new title and recommends

[ ] AND attaches a "Letter of Intent" [3] New Fiscal Note

1. zero  
2. with dollar for suppl

[X] reports it back without recommendation

[ ] referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING DO PASS

Barnes, ch.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

MEMBERS HAVING OTHER RECOMMENDATIONS:

Buchholtz No Rec  
Patrick O'Connell No Rec  
Mullins  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dorona Barnes  
CHAIRMAN

COMMITTEE REPORT

3/5

HOUSE

Judiciary

FURTHER: (added 3/5)

(5)

4/30/81

Date: 3/4/82

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 546

"An Act relating to state contracts for professional services and establishing a penalty for violation of provisions of law relating to professional service contracts; and providing for an effective date."

under consideration and ~~(a majority of the committee) (the committee)~~ reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 546 (SA) [X] same title [ ] new title

and recommends \_\_\_\_\_

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[X] reports it back without <sup>individual</sup> recommendation or "as follows"

[ ] referred to the Judiciary by Speaker Committee

MEMBERS SIGNING DO PASS

Ray M. Petroski
[Signature]
[Signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

[Signature] No REC.
[Signature] No REC.

Ray M. Petroski CHAIRMAN

*Info*

Original sponsor: State Affairs Committee  
by request

Offered: 4/5/82  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 546 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state contracts for professional  
7 services; and providing for an effective date."

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

9 \* Section 1. AS 19.10.170(a) is amended to read:

10 (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
11 the general policy of the department to require the construction of all  
12 highways under bid contract. However, subject to the provisions of (b)  
13 of this section, when the estimated cost of a construction project is  
14 less than \$100,000 or when it appears to be in the best interests of the  
15 state, the department may perform the work notwithstanding any other  
16 provisions of law.

17 \* Sec. 2. AS 35.15.010(a) is amended to read:

18 (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
19 the general policy of the department to require the construction of all  
20 public works under bid contract. However, when the estimated cost of a  
21 construction project is less than \$100,000, or when it appears to be in  
22 the best interests of the state, the department may perform the work,  
23 notwithstanding any other provisions of law. A complete record shall be  
24 kept by the commissioner or his designee of all transactions entered  
25 into under this section including names of employees involved in the  
26 transactions.

27 \* Sec. 3. AS 36 is amended by adding a new chapter to read:

28 CHAPTER 98. PROFESSIONAL SERVICES CONTRACTS.

29 Sec. 36.98.010. APPLICATION. Except as provided in AS 36.98.080,

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*Notes*

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1 this chapter applies to contracts for professional services provided to  
2 a state agency unless

3 (1) the total amount of a contract does not exceed \$5,000;

4 (2) the contract is an employment contract for services to be  
5 performed under direct supervision regardless of the existence of an  
6 employer-employee relationship and a written justification signed by the  
7 person responsible for awarding the contract is filed with the commis-  
8 sioner;

9 (3) the contract is for construction, repair, or maintenance  
10 of a public work and the total amount of a contract does not exceed  
11 \$100,000;

12 (4) the contract is awarded based on competitive bids ob-  
13 tained under the procedure provided in AS 37.05.230.

14 Sec. 36.98.020. PROFESSIONAL SERVICES CONTRACTORS REGISTER. The  
15 commissioner shall establish and maintain a register of all persons or  
16 firms interested in providing professional services to the state.

17 Sec. 36.98.030. SOLICITATION OF SERVICES. (a) When a state  
18 agency proposes to enter into a contract for professional services, the  
19 agency shall give public notice soliciting proposals for the profes-  
20 sional services contract by publication at least three times in one or  
21 more newspapers in general circulation in the state. The first notice  
22 shall be published not less than 30 days before the date on which the  
23 agency expects to enter into the contract and each subsequent notice  
24 shall be published at intervals of no more than three days thereafter.  
25 The notice shall include

26 (1) a general description of the proposed project for which  
27 the agency is seeking professional services; and

28 (2) the procedure by which a person or firm interested in the  
29 professional services contract may make its proposal to the agency for

1 consideration for the contract.

2 (b) In addition to complying with the publication requirements of  
3 (a) of this section, when a state agency proposes to enter into a con-  
4 tract for professional services it shall

5 (1) review the register of professional services contractors  
6 maintained by the commissioner under AS 36.98.020; and

7 (2) provide a request for proposals for the proposed profes-  
8 sional services contract to each prospective contractor who, after  
9 review of the register of professional services contractors under (1) of  
10 this subsection, the agency finds is qualified for consideration for the  
11 contract.

12 (c) A request for proposals must be extended to a sufficient  
13 number of prospective providers of the required services to assure that  
14 public interest in competition is adequately served. Proposals from at  
15 least six persons or firms shall be solicited for contracts equal to or  
16 greater than \$100,000 if the expertise required is available. Proposals  
17 from at least three persons or firms shall be solicited for contracts of  
18 less than \$100,000 if the expertise required is available. If the  
19 expertise required is not available to enable an agency to solicit the  
20 number of proposals otherwise required under this subsection, the agency  
21 shall

22 (1) solicit proposals from each person or firm listed on the  
23 professional services contractors register maintained under AS 36.98.020  
24 who appears to possess the required expertise;

25 (2) publish notice soliciting proposals as required under (a)  
26 of this section; and

27 (3) solicit proposals from each other person or firm possess-  
28 ing the required expertise of which the agency is aware.

29 (d) The provisions of this section do not apply if

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1 (1) the contracting agency demonstrates that there is a  
2 single source of the expertise or knowledge required or that one person  
3 or firm can clearly perform the required tasks more satisfactorily  
4 because of the person's or firm's prior work and the head of the state  
5 agency submits a written request to the commissioner of administration  
6 detailing the reasons for an exemption and the commissioner of adminis-  
7 tration or his designee authorizes the state agency to enter contract  
8 negotiations with the single source;

9 (2) the commissioner determines that public necessity will  
10 not permit delay incident to the procedures otherwise required by this  
11 chapter; or

12 (3) the service is to be provided by another state agency, a  
13 federal agency, or a political subdivision of the state.

14 (e) A request for proposals must contain a description of the work  
15 to be performed under the contract and the terms under which the work is  
16 to be performed. A request for proposals must contain that information  
17 necessary for a prospective contractor to submit a response or contain  
18 references to any information that cannot reasonably be included with  
19 the request. The request for proposals must provide a description of  
20 the factors that will be considered by the state agency when it evalu-  
21 ates the proposals received.

22 (f) Nothing in this section limits the authority of an agency to  
23 use additional means that it may consider appropriate to notify prospec-  
24 tive contractors that it proposes to enter into a contract for profes-  
25 sional services.

26 Sec. 36.98.040. AWARD OF CONTRACT. (a) After the responses are  
27 submitted, the state agency shall evaluate them. The evaluation shall  
28 consist of assigning point values to factors considered by the agency in  
29 evaluating each proposal. All proposals received must be evaluated

1 using the same factors as those set out in the request for proposal.

2 (b) The contract must be executed by the contractor and the pro-  
3 ject director for the contracting agency and be approved by the head of  
4 the contracting agency or his designee. If a contract is made by a  
5 board or commission, execution of the contract on behalf of the board or  
6 commission must be authorized by the board or commission.

7 (c) A contract subject to this chapter must be submitted to the  
8 commissioner for review and approval and, if approved, is effective  
9 from the date of the approval. A state agency must clearly provide  
10 in the request for proposal that the state is not obligated to perform  
11 under the contract until the approval required by this subsection is  
12 granted.

13 (d) A contract awarded under this chapter shall contain:

- 14 (1) the amount of the contract stated on its first page;  
15 (2) the date for the work to begin;  
16 (3) the date by which the work must be completed; and  
17 (4) a certification under penalty of perjury by the project  
18 director for the contracting agency, the head of the contracting agency,  
19 or his designee that sufficient funds are available in an appropriation  
20 to be encumbered for the amount of the contract.

21 (e) If the contract contains terms that are not provided in a  
22 state standard form contract or if the standard terms are deleted or  
23 modified by other terms that are not standard, the contract must be  
24 reviewed by the Department of Law and approved as to form. The review  
25 and approval required by this subsection must be completed before award  
26 of the contract to the successful contractor.

27 Sec. 36.98.050. CONTRACT ADMINISTRATION. (a) When a state agency  
28 has entered into a professional services contract, the agency is respon-  
29 sible for the diligent administration and monitoring of the performance

1 of the provisions of the contract.

2 (b) When a professional services contract has been completed, the  
3 state agency shall evaluate the performance of the contractor under the  
4 contract and shall report on and evaluate the use of the final product  
5 of the professional services contract. A copy of the report and evalua-  
6 tion prepared under this subsection shall be transmitted to the commis-  
7 sioner and shall be retained by the commissioner for as long as he is  
8 required to maintain copies of completed contracts.

9 Sec. 36.98.060. FILING. A copy of each contract and the response  
10 to the request for proposal upon which the contract was awarded must be  
11 filed with both the Department of Administration and the contracting  
12 agency and is open for public inspection. The request for proposal and  
13 the name and address of each person who submitted a response to it must  
14 also accompany the filed copies.

15 Sec. 36.98.070. CONTRACT PROCEDURES. The commissioner shall, by  
16 regulation adopted in accordance with the Administrative Procedure Act  
17 (AS 44.62), establish the manner and form by which state professional  
18 services contracts shall be prepared and processed, including, but not  
19 limited to, a review process for persons aggrieved under this chapter.

20 Sec. 36.98.080. CONTRACTS FOR ARCHITECTURAL, ENGINEERING, AND LAND  
21 SURVEYING SERVICES. (a) A state agency shall select persons or firms  
22 for the performance of architectural, engineering, or land surveying  
23 services and award contracts for those services on the basis of compe-  
24 tence and qualification for the type of professional services required.

25 (b) The state agency shall attempt to negotiate a contract for the  
26 services with the best qualified person or firm at a price that is fair  
27 and reasonable.

28 (c) Before selection of and negotiation with the best qualified  
29 person or firm, a state agency may not request or consider a statement,

1 bid, or estimate of fees, hourly charges, estimated hours of professional  
2 time, or other estimate of charges for architectural, engineering, or  
3 land surveying services for the proposed project or request any other  
4 submission or action that would constitute a violation of AS 08.48 or a  
5 regulation adopted under AS 08.48. A request for proposals or other  
6 solicitation for services of an architect, engineer, or land surveyor  
7 issued by a state agency may not contain a requirement or request for a  
8 statement, bid, estimate, or other information concerning fees or charges  
9 prohibited under this section.

10 (d) This section does not require a particular procedure for the  
11 selection of architects, engineers, or land surveyors or for the award  
12 of contracts except as provided in (b) and (c) of this section. A state  
13 agency may rank proposals or offers received.

14 (e) The provisions of AS 36.98.040(a) do not apply to contracts  
15 awarded under this section.

16 (f) This section does not apply to a contract for the performance  
17 of architectural, engineering, or land surveying services if the commis-  
18 sioner determines that public necessity will not permit delay incident  
19 to the procedures otherwise required by this section.

20 Sec. 36.98.090. DEFINITIONS. In this chapter

21 (1) "architectural, engineering, or land surveying services"  
22 means professional services involving the practice of architecture,  
23 engineering, or land surveying as defined under AS 08.48.341;

24 (2) "commissioner" means the commissioner of administration;  
25 however, in the case of contracts issued by the Department of Transpor-  
26 tation and Public Facilities, it means the commissioner of transporta-  
27 tion and public facilities;

28 (3) "professional services contract" means a contract for  
29 professional, technical, or consultant's services that are predominantly

1 intellectual in character and that

2 (A) include analysis, evaluation, prediction, planning,  
3 or recommendation; and

4 (B) result in the production of a report or the comple-  
5 tion of a task;

6 (4) "public necessity" means an urgent public need that could  
7 not have been anticipated or foreseen; the term also includes emergency  
8 situations when work is necessary to protect life or property;

9 (5) "request for proposals" means a written solicitation for  
10 contract proposals by prospective contractors that sets out the nature  
11 of the services to be performed or product to be secured with sufficient  
12 information for a qualified prospective contractor to prepare a contract  
13 proposal for consideration and evaluation by the state agency;

14 (6) "state agency" means a department, institution, board,  
15 commission, division, or other administrative unit of the executive or  
16 judicial branch of state government, and the University of Alaska.

17 \* Sec. 4. AS 37.05.230 is amended by adding a new paragraph to read:

18 (9) requests for and acceptance of bids or other proposals  
19 for professional services shall comply with AS 36.98.

20 \* Sec. 5. AS 37.05.240 is amended by adding a new subsection to read:

21 (b) A contract for professional services shall be awarded in  
22 accordance with AS 36.98.

23 \* Sec. 6. This Act applies to requests for bids or proposals for profes-  
24 sional services issued after the effective date of this Act.

25 \* Sec. 7. This Act takes effect July 1, 1982.

*Burrier*

Original sponsor: State Affairs Committee  
by request

Offered: 3/5/82  
Referred: Judiciary

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 546 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state contracts for professional  
7 services and establishing a penalty for violation of  
8 provisions of law relating to professional service  
9 contracts; and providing for an effective date."

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

11 \* Section 1. AS 19.10.170(a) is amended to read:

12 (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
13 the general policy of the department to require the construction of all  
14 highways under bid contract. However, subject to the provisions of (b)  
15 of this section, when the estimated cost of a construction project is  
16 less than \$100,000 or when it appears to be in the best interests of the  
17 state, the department may perform the work notwithstanding any other  
18 provisions of law.

19 \* Sec. 2. AS 35.15.010(a) is amended to read:

20 (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
21 the general policy of the department to require the construction of all  
22 public works under bid contract. However, when the estimated cost of a  
23 construction project is less than \$100,000, or when it appears to be in  
24 the best interests of the state, the department may perform the work,  
25 notwithstanding any other provisions of law. A complete record shall be  
26 kept by the commissioner or his designee of all transactions entered  
27 into under this section including names of employees involved in the  
28 transactions.

29 \* Sec. 3. AS 36 is amended by adding a new chapter to read:

COMMITTEE COPY

1 CHAPTER 98. PROFESSIONAL SERVICES CONTRACTS.

2 Sec. 36.98.010. APPLICATION. (a) Except as provided in AS 36.98.-  
3 080, this chapter applies to contracts for professional services provided  
4 to a state agency unless

5 (1) the total amount of a contract does not exceed \$25,000;

6 (2) the contract is an employment contract for services to be  
7 performed under direct supervision regardless of the existence of an  
8 employer-employee relationship and a written justification signed by the  
9 person responsible for awarding the contract is filed with the commis-  
10 sioner;

11 (3) the contract is for construction, repair, or maintenance  
12 of a public work and the total amount of a contract does not exceed  
13 \$50,000;

14 (4) the contract is awarded based on competitive bids ob-  
15 tained under the procedure provided in AS 37.05.231.

16 (b) The commissioner may by regulation adjust the dollar limita-  
17 tions set out in (a) of this section to reflect changes in the consumer  
18 price index for Anchorage since July 1, 1982. However, the commissioner  
19 may not make this adjustment more frequently than every other year.

20 Sec. 36.98.020. PROFESSIONAL SERVICES CONTRACTORS REGISTER. (a)  
21 A person or firm who desires to provide professional services to a state  
22 agency shall submit to the commissioner a statement of qualifications  
23 and performance data, and any other information that the commissioner,  
24 by regulation, may require.

25 (b) The commissioner may at any time require the person or firm to  
26 revise the statement of qualifications and performance data or any other  
27 information submitted by the person or firm if the commissioner believes  
28 that the credentials or record of experience of the person have materi-  
29 ally changed since the last filing by the person or firm.

1           Sec. 36.98.030. SOLICITATION OF SERVICES. (a) When a state  
2 agency proposes to enter into a contract for professional services, the  
3 agency shall give public notice soliciting proposals for the profes-  
4 sional services contract by publication at least three times in one or  
5 more newspapers in general circulation in the state. The first notice  
6 shall be published not less than 30 days before the date on which the  
7 agency expects to enter into the contract and each subsequent notice  
8 shall be published at intervals of no more than three days thereafter.  
9 The notice shall include

10           (1) a general description of the proposed project for which  
11 the agency is seeking professional services; and

12           (2) the procedure by which a person or firm interested in the  
13 professional services contract may make its proposal to the agency for  
14 consideration for the contract.

15           (b) In addition to complying with the publication requirements of  
16 (a) of this section, when a state agency proposes to enter into a con-  
17 tract for professional services it shall

18           (1) review the register of professional services contractors  
19 maintained by the commissioner under AS 36.98.020; and

20           (2) provide a request for proposals for the proposed profes-  
21 sional services contract to each prospective contractor who, after  
22 review of the register of professional services contractors under (1) of  
23 this subsection, the agency finds is qualified for consideration for the  
24 contract.

25           (c) A request for proposals must be extended to a sufficient  
26 number of prospective providers of the required services to assure that  
27 public interest in competition is adequately served. Proposals from at  
28 least six persons or firms shall be solicited for contracts equal to or  
29 greater than \$100,000 if the expertise required is available. Proposals

1 from at least three persons or firms shall be solicited for contracts of  
2 less than \$100,000 if the expertise required is available. If the exper-  
3 tise required is not available to enable an agency to solicit the number  
4 of proposals otherwise required under this subsection, the agency shall

5 (1) solicit proposals from each person or firm listed on the  
6 professional services contractors register maintained under AS 36.98.020  
7 who appears to possess the required expertise;

8 (2) publish notice soliciting proposals as required under (a)  
9 of this section; and

10 (3) solicit proposals from each other person or firm possess-  
11 ing the required expertise of which the agency is aware.

12 (d) The provisions of this section do not apply if

13 (1) the contracting agency demonstrates that there is a  
14 single source of the expertise or knowledge required or that one person  
15 or firm can clearly perform the required tasks more satisfactorily  
16 because of the person's or firm's prior work; however, this exemption  
17 applies only when the head of the state agency has submitted a written  
18 request to the commissioner that details the reasons for the exemption  
19 and the commissioner or his designee has authorized the state agency to  
20 enter contract negotiations with the single source;

21 (2) the commissioner determines that public necessity will  
22 not permit delay incident to the procedures otherwise required by this  
23 chapter; or

24 (3) the service is to be provided by another state agency, a  
25 federal agency, the University of Alaska, or a political subdivision of  
26 the state.

27 (e) A request for proposals must contain a description of the work  
28 to be performed under the contract and the terms under which the work is  
29 to be performed. A request for proposals must contain that information

1 necessary for a prospective contractor to submit a response or contain  
2 references to any information that cannot reasonably be included with  
3 the request. The request for proposals must provide a description of  
4 the factors that will be considered by the state agency when it evaluates  
5 the proposals received.

6 (f) Nothing in this section limits the authority of an agency to  
7 use additional means that it may consider appropriate to notify prospec-  
8 tive contractors that it proposes to enter into a contract for profes-  
9 sional services.

10 Sec. 36.98.040. AWARD OF CONTRACT. (a) After the responses are  
11 submitted, the state agency shall evaluate them. The evaluation shall  
12 consist of assigning point values to factors considered by the agency in  
13 evaluating each proposal. All proposals received must be evaluated  
14 using the same factors as those set out in the request for proposal.

15 (b) The contract must be executed by the contractor and the pro-  
16 ject director for the contracting agency and be approved by the head of  
17 the contracting agency or his designee. If a contract is made by a  
18 board or commission, execution of the contract on behalf of the board or  
19 commission must be authorized by the board or commission.

20 (c) A contract subject to this chapter must be submitted to the  
21 commissioner for review and approval and, if approved, is effective from  
22 the date of the approval. A state agency must clearly provide in the  
23 request for proposal that the state is not obligated to perform under  
24 the contract until the approval required by this subsection is granted.

25 (d) A contract awarded under this chapter shall contain:

- 26 (1) the amount of the contract stated on its first page;  
27 (2) the date for the work to begin;  
28 (3) the date by which the work must be completed; and  
29 (4) a certification under penalty of perjury by the project

1 director for the contracting agency, the head of the contracting agency,  
2 or his designee that sufficient funds are available in an appropriation  
3 to be encumbered for the amount of the contract.

4 (e) If the contract contains terms that are not provided in a  
5 state standard form contract or if the standard terms are deleted or  
6 modified by other terms that are not standard, the contract must be  
7 reviewed by the Department of Law and approved as to form. The review  
8 and approval required by this subsection must be completed before award  
9 of the contract to the successful contractor.

10 Sec. 36.98.050. CONTRACT ADMINISTRATION. (a) When a state agency  
11 has entered into a professional services contract, the agency is respon-  
12 sible for the diligent administration and monitoring of the performance  
13 of the provisions of the contract.

14 (b) When a professional services contract has been completed, the  
15 state agency shall evaluate the performance of the contractor under the  
16 contract and shall report on and evaluate the use of the final product  
17 of the professional services contract. A copy of the report and evalua-  
18 tion prepared under this subsection shall be transmitted to the commis-  
19 sioner and shall be retained by the commissioner for as long as he is  
20 required to maintain copies of completed contracts.

21 Sec. 36.98.060. FILING. A copy of each contract and the response  
22 to the request for proposal upon which the contract was awarded must be  
23 filed with both the Department of Administration and the contracting  
24 agency and is open for public inspection. The request for proposal and  
25 the name and address of each person who submitted a response to it must  
26 also accompany the filed copies.

27 Sec. 36.98.070. CONTRACT PROCEDURES. The commissioner shall, by  
28 regulation adopted in accordance with the Administrative Procedure Act  
29 (AS 44.62), establish the manner and form by which state professional

1 services contracts shall be prepared and processed, including, but not  
2 limited to, a review process for persons aggrieved under this chapter.

3 Sec. 36.98.080. CONTRACTS FOR ARCHITECTURAL, ENGINEERING, AND LAND  
4 SURVEYING SERVICES. (a) The state shall select persons or firms and  
5 award contracts for the performance of architectural, engineering, or  
6 land surveying services on the basis of competence and qualification for  
7 the type of professional services required. The amount of the contract  
8 shall be determined by negotiation for those services at fair and rea-  
9 sonable prices or by the competitive bidding procedures provided under  
10 AS 37.05.230. Before negotiations or competitive bidding procedures  
11 under this section, the state may not request or consider any statement,  
12 bid or estimate of fees or charges for architectural, engineering, or  
13 land surveying services for the proposed project or request any other  
14 submission or action that would violate AS 08.48 or a regulation adopted  
15 under AS 08.48.

16 (b) In awarding a contract by negotiation for the services of an  
17 architect, engineer, or land surveyor registered under AS 08.48, the  
18 state shall negotiate with the three best qualified persons or firms to  
19 perform the desired work on the basis of competence and professional  
20 qualifications. The state may reject all or part of a proposal.

21 (c) The provisions of AS 36.98.040(a) do not apply to contracts  
22 awarded under this section.

23 (d) This section does not apply to a contract for the performance  
24 of architectural, engineering, or land surveying services if the commis-  
25 sioner determines that public necessity will not permit delay incident  
26 to the procedures otherwise required by this section.

27 Sec. 36.98.090. DEFINITIONS. In this chapter

28 (1) "commissioner" means the commissioner of administration;  
29 however, in the case of contracts issued by the Department of Transpor-

1       tation and Public Facilities, it means the commissioner of transporta-  
2       tion and public facilities;

3               (2) "professional services contract" means a contract for  
4       professional, technical, or consultant's services that are predominantly  
5       intellectual in character and that

6               (A) include analysis, evaluation, prediction, planning,  
7       or recommendation; and

8               (B) result in the production of a report or the comple-  
9       tion of a task;

10              (3) "public necessity" means an urgent public need that could  
11       not have been anticipated or foreseen; the term also includes emergency  
12       situations when work is necessary to protect life or property;

13              (4) "request for proposals" means a written solicitation for  
14       contract proposals by prospective contractors that sets out the nature  
15       of the services to be performed or product to be secured with sufficient  
16       information for a qualified prospective contractor to prepare a contract  
17       proposal for consideration and evaluation by the state agency;

18              (5) "state agency" means a department, institution, board,  
19       commission, division, or other administrative unit of the executive  
20       branch of state government, and the University of Alaska.

21       \* Sec. 4. AS 37.05.230 is amended by adding a new paragraph to read:

22              (9) requests for and acceptance of bids or other proposals  
23       for professional services shall comply with AS 36.98.

24       \* Sec. 5. AS 37.05.240 is amended by adding a new subsection to read:

25              (b) A contract for professional services shall be awarded in  
26       accordance with AS 36.98.

27       \* Sec. 6. This Act applies to requests for bids or proposals for profes-  
28       sional services issued after the effective date of this Act.

29       \* Sec. 7. This Act takes effect July 1, 1982.

*Chenoweth*  
*12-1589*

Introduced: 4/30/81  
Referred: State Affairs

BY THE STATE AFFAIRS  
COMMITTEE BY REQUEST

1 IN THE HOUSE

2 HOUSE BILL NO. 546

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state contracts for professional  
7 services and establishing a penalty for violation of  
8 provisions of law relating to professional service  
9 contracts; and providing for an effective date."

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

11 \* Section 1. AS 36 is amended by adding a new chapter to read:

12 CHAPTER 98. PROFESSIONAL SERVICES CONTRACTS.

13 ARTICLE 1. CONTRACTORS' REGISTER.

14 Sec. 36.98.010. PROFESSIONAL SERVICES CONTRACTORS REGISTER. (a)

15 A person who desires to provide professional services to a state  
16 agency, the judicial branch of state government, or the University of  
17 Alaska shall annually, by a date determined by the commissioner of  
18 administration by regulation, submit to the commissioner a statement of  
19 qualifications and performance data, and any other information which  
20 the commissioner, by regulation, may require.

21 (b) The commissioner may at any time require the person to revise  
22 the statement of qualifications and performance data, or any other  
23 information, submitted by the person before the annual filing date  
24 established by the commissioner under (a) of this section if the com-  
25 missioner believes that the credentials or record of experience of the  
26 person have materially changed since the last filing by the person.

27 ARTICLE 2. STATE AGENCY CONTRACTS.

28 Sec. 36.98.100. PRELIMINARY REQUIREMENTS. (a) When a state  
29 agency proposes to enter into a contract for professional services, the

1 agency shall give public notice of the professional services contract.  
2 At least 30 days before the date on which the agency expects to enter  
3 into the contract for professional services it shall give notice by  
4 publication at least three times in one or more newspapers in general  
5 circulation in the state of

6 (1) a general description of the proposed project for which  
7 the agency is seeking professional services; and

8 (2) the procedure by which a person interested in the pro-  
9 fessional services contract may apply to the agency for consideration  
10 for the contract.

11 (b) In addition to complying with the publication requirements of  
12 (a) of this section, when a state agency proposes to enter into a  
13 contract for professional services it shall

14 (1) review the register of professional services contractors  
15 maintained by the commissioner under AS 36.98.010; and

16 (2) provide a request for proposals for the proposed pro-  
17 fessional services contract to each prospective contractor which, after  
18 review of the register of professional services contractors under (1)  
19 of this subsection, the agency finds is qualified for consideration for  
20 the contract.

21 Sec. 36.98.110. DUTIES OF STATE AGENCY. A state agency may not  
22 enter into a contract for professional services unless the head of the  
23 agency or a certifying officer of the agency certifies to the commis-  
24 sioner that

25 (1) there are no state employees who are competent or avail-  
26 able to perform the services required by the contract;

27 (2) competitive bid provisions are not adequate to secure  
28 the professional services needed to perform the services required by  
29 the contract;

1 (3) the professional services required by the contract are  
2 original in character and not available as a product of a prior con-  
3 sultant;

4 (4) the agency has complied with the provisions of AS 36.98.-  
5 100;

6 (5) the agency has received, reviewed, and accepted a de-  
7 tailed work plan from the contractor for performance of professional  
8 services by the contractor; and

9 (6) the agency has developed and will implement a written  
10 plan by which the agency will

11 (A) assign personnel of the agency to monitor the  
12 performance of the contract;

13 (B) periodically review and make written reports on  
14 partial performance of the contract by the contractor; and

15 (C) use the final product of the contract for profes-  
16 sional services.

17 Sec. 36.98.120. DUTIES OF THE COMMISSIONER. (a) The commis-  
18 sioner shall provide all contract management and review functions for  
19 state agency professional services contracts except those management  
20 and review functions which are assigned by AS 36.98.100 - 36.98.110 to  
21 the state agency. A state agency may not enter into a professional  
22 services contract unless the contract has been approved in writing by  
23 the commissioner.

24 (b) The commissioner shall, by regulation adopted in accordance  
25 with the Administrative Procedure Act (AS 44.62), establish the manner  
26 and form by which state professional services contracts shall be pre-  
27 pared and processed, and shall examine and approve or disapprove pro-  
28 posed professional services contracts based on review of the purpose  
29 and content, propriety, and financial effect of the proposed contract.

1 (c) The commissioner may not approve a proposed professional  
2 services contract unless he first finds that

3 (1) all provisions of AS 36.98.110 have been verified or  
4 complied with by the state agency and that the plan developed by the  
5 agency under AS 36.98.110(6) is satisfactory;

6 (2) the work to be performed under the contract is necessary  
7 for the agency to fulfill a responsibility assigned to it by statute;

8 (3) there is authority in statute for the agency to enter  
9 into the contract;

10 (4) the contract will not establish an employer-employee  
11 relationship between the agency and the contractor or any persons per-  
12 forming under the proposed contract;

13 (5) a state employee will not perform the contract or any  
14 portion of it; and

15 (6) a state agency has not previously performed or con-  
16 tracted for the performance of tasks which would be substantially  
17 duplicated under the proposed professional services contract.

18 Sec. 36.98.130. CONTRACT TERMS AND CONDITIONS. A professional  
19 services contract with a state agency is not valid unless

20 (1) the contract includes a provision by which the agency  
21 may unilaterally terminate the contract, upon payment of just compensa-  
22 tion for professional services rendered under the contract, if the  
23 agency determines that further performance under the contract would not  
24 serve the purposes of the agency or the best interests of the state;

25 (2) the contract contains a termination date; and

26 (3) the contract is executed by the state by

27 (A) the head of the agency which is a party to the  
28 contract; and

29 (B) the commissioner or his designee.

1           Sec. 36.98.140. CONTRACT ADMINISTRATION. (a) When a state  
2 agency has entered into a professional services contract, the agency is  
3 responsible for the diligent administration and monitoring of the  
4 performance of the provisions of the contract.

5           (b) The commissioner may require a state agency to report to him  
6 at any time on the current status of a professional services contract  
7 to which the agency is a party.

8           (c) When a professional services contract has been completed, the  
9 state agency shall evaluate the performance of the contractor under the  
10 contract and shall report on and evaluate the use of the final product  
11 of the professional services contract. A copy of the report and  
12 evaluations prepared under this subsection shall be transmitted to the  
13 commissioner, and shall be retained by the commissioner for as long as  
14 he is required to maintain copies of completed contracts.

15           Sec. 36.98.150. EXCEPTIONS. The provisions of AS 36.98.100 -  
16 36.98.150 do not apply to a professional services contract for which  
17 the estimated cost of the professional services to be provided is  
18 \$2,500 or less.

19                           ARTICLE 3. GENERAL PROVISIONS.

20           Sec. 36.98.200. DEFINITIONS. In this chapter

21           (1) "commissioner" means the commissioner of administration;

22           (2) "professional services contract" means a contract for  
23 professional, technical, or consultant's services which are predomi-  
24 nantly intellectual in character and which

25                           (A) include analysis, evaluation, prediction, planning  
26 or recommendation; and

27                           (B) result in the production of a report or the comple-  
28 tion of a task;

29           (3) "state agency" means a department, institution, board,

1 commission, division, or other administrative unit of the executive  
2 branch of state government; the term does not include the University of  
3 Alaska.

4 \* Sec. 2. AS 14.40 is amended by adding a new section to article 3 to  
5 read:

6 Sec. 14.40.455. PROFESSIONAL SERVICES CONTRACTS. (a) When the  
7 University of Alaska proposes to enter into a contract for professional  
8 services, it shall give public notice of the professional services  
9 contract. At least 30 days before the date on which the University of  
10 Alaska expects to enter into the contract for professional services it  
11 shall give notice by publication at least three times in one or more  
12 newspapers in general circulation in the state of

13 (1) a general description of the proposed project for which  
14 the University of Alaska is seeking professional services; and

15 (2) the procedure by which a person interested in the pro-  
16 fessional services contract may apply to the University of Alaska for  
17 consideration for the contract.

18 (b) In addition to complying with the publication requirements of  
19 (a) of this section, when the University of Alaska proposes to enter  
20 into a contract for professional services it shall

21 (1) review the register of professional services contractors  
22 maintained by the commissioner of administration under AS 36.98.010;  
23 and

24 (2) provide a request for proposals for the proposed pro-  
25 fessional services contract to each prospective contractor which, after  
26 review of the register of professional services contractors under (1)  
27 of this subsection, the University of Alaska finds is qualified for  
28 consideration for the contract.

29 (c) A member of the Board of Regents, or an officer or employee

1 of the University of Alaska may not enter into a professional services  
2 contract on behalf of the University of Alaska in violation of the  
3 provisions of this section. A person who wilfully violates a provision  
4 of this section is guilty of a misdemeanor. A person who is convicted  
5 of a misdemeanor under this section immediately forfeits his office or  
6 position.

7 (d) In this section, "professional services contract" means a  
8 contract for professional, technical, or consultant's services which  
9 are predominantly intellectual in character and which

10 (1) include analysis, evaluation, prediction, planning or  
11 recommendation; and

12 (2) result in the production of a report or the completion  
13 of a task.

14 \* Sec. 3. AS 22.20 is amended by adding a new section to read:

15 ARTICLE 4. PROFESSIONAL SERVICES CONTRACTS.

16 Sec. 22.20.200. PROFESSIONAL SERVICES CONTRACTS. (a) When a  
17 judicial officer or an employee of the judicial system proposes to  
18 enter into a contract for professional services, the judicial officer  
19 or the employee shall give public notice of the professional services  
20 contract. At least 30 days before the date on which the judicial  
21 officer or the employee expects to enter into the contract for profes-  
22 sional services, the judicial officer or the employee shall give notice  
23 by publication at least three times in one or more newspapers in general  
24 circulation in the state of

25 (1) a general description of the proposed project for which  
26 the judicial officer or the employee is seeking professional services;  
27 and

28 (2) the procedure by which a person interested in the pro-  
29 fessional services contract may apply to the judicial officer or the

1 employee for consideration for the contract.

2 (b) In addition to complying with the publication requirements of  
3 (a) of this section, when a judicial officer or an employee proposes to  
4 enter into a contract for professional services, the judicial officer  
5 or the employee shall

6 (1) review the register of professional services contractors  
7 maintained by the commissioner of administration under AS 36.98.010;  
8 and

9 (2) provide a request for proposals for the proposed pro-  
10 fessional services contract to each prospective contractor which, after  
11 review of the register of professional services contractors under (1)  
12 of this subsection, the judicial officer or the employee finds is  
13 qualified for consideration for the contract.

14 (c) A judicial officer or an employee of the judicial system may  
15 not enter into a professional services contract on behalf of the judi-  
16 cial system in violation of the provisions of this section. A judicial  
17 officer or an employee who wilfully violates a provision of this section  
18 is guilty of a misdemeanor. An employee who is convicted of a mis-  
19 demeanor under this section immediately forfeits his position.

20 (d) In this section,

21 (1) "employee" means an employee of the judicial system who  
22 is not a judicial officer;

23 (2) "professional services contract" means a contract for  
24 professional, technical, or consultant's services which are predomi-  
25 nantly intellectual in character and which

26 (A) include analysis, evaluation, prediction, planning  
27 or recommendation; and

28 (B) result in the production of a report or the comple-  
29 tion of a task.

1 \* Sec. 4. AS 39.25.160 is amended by adding a new subsection to read:

2 (i) A person may not enter into a professional services contract  
3 on behalf of a state agency in violation of the provisions of AS 36.98.

4 \* Sec. 5. This Act takes effect July 1, 1981.  
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29 COMMITTEE COPY

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CS HB 546 No. 1 Page 1 of 2  
 Title An Act Relating to State Contracts for Professional Services  
 Requested by House State Affairs Date 3/5/82

II. FISCAL DETAIL  
 Agency Affected Administration  
 Program Category Affected Centralized Administration  
 BRU, Program, Or Subprogram(s) Affected Accounting  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	67.5	72.9	78.7	84.9	91.6	98.9
200 TRAVEL	-					
300 CONTRACTUAL	238.4	257.4	277.9	300.1	324.1	350.0
400 COMMODITIES	1.5	1.6	1.7	1.3	1.9	2.0
500 EQUIPMENT	12.6	13.6	14.6	15.7	16.9	18.2
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>320.0</b>	<b>345.5</b>	<b>372.9</b>	<b>402.5</b>	<b>434.5</b>	<b>469.1</b>

FUNDING (Thousands of Dollars)

	320.0	345.5	372.9	402.5	434.5	469.1
GENERAL FUND	320.0	345.5	372.9	402.5	434.5	469.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS

	2	2	2	2	2	2
FULL TIME	2	2	2	2	2	2
PART TIME						
TEMPORARY						

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

Contractual

Computer Program Development:

Register Development  
 Evaluation System/Form/Tracking System  
 Application form  
 On-line Capabilities 160.0  
 Printing of Labels 4.0  
 Printing of Applications 1.0

IV. DATE March 26, 1982 PREPARED BY George Elgee  
 AGENCY Administration  
 Original: Legislative Finance PHONE 465-2250  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

11B546

Contractual CSHB 546 No. 1 Page 1 of 2

Procedures:

Training in procuring contracts and operating  
within new regulations

Re-write of Existing Procedures

Administration Code Drafts

Administration Code Public Hearings 60.0

Advertising:

Professional Listing 5.4

Services associated with required positions --  
phone, office space, computer terminal rental, etc. 8.0

\$238.4

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CS HB 546 No. 2  
 Title An Act Relating to State Contracts for Professional Services  
 Requested by House State Affairs Date 3/5/82

II. FISCAL DETAIL  
 Agency Affected All  
 Program Category Affected All  
 BRU, Program, Or Subprogram(s) Affected All  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	250.0	270.0	291.6	314.9	340.1	367.3
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>250.0</b>	<b>270.0</b>	<b>291.6</b>	<b>314.9</b>	<b>340.1</b>	<b>367.3</b>

FUNDING (Thousands of Dollars)

	250.0	270.0	291.6	314.9	340.1	367.3
GENERAL FUND	250.0	270.0	291.6	314.9	340.1	367.3
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS

	0	0	0	0	0	0
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

Advertisements:

\$50 per ad) x (3 ads) x (3 papers--Juneau, Anchorage, Fairbanks) x 700 contracts less (\$100,000 spent in FY 81) \$215,000

RFP Printing and Mailing 35,000  
 EST based on Multi-page RFP \$250,000

IV. DATE March 26, 1982 PREPARED BY George Elgee *Elgee*  
 AGENCY Administration  
 Original: Legislative Finance PHONE 465-2250  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 546 *203*  
 Title "An Act relating to state contracts for professional services and  
Requested by Repr. Barnes, House Judiciary Date March 21, 1982  
 establishing penalties....and providing for an effective date."

II. FISCAL DETAIL

Agency Affected Department of Law  
 Program Category Affected General Government  
 BRU, Program, Or Subprogram(s) Affected Legal Services  
 (Note: If more than one budget component is affected, separate line-item  
 amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

This clarifies and improves the state's procurement practices for professional services. The current bill (offered 3/5/82) provides departments with the flexibility to meet exigent circumstances while, at the same time, assuring that the public interest in competition is properly served. Although some slight expense will be incurred in complying with the bill, no additional resources will be required to carryout its provisions.

IV. DATE March 24, 1982 PREPARED BY Richard I. Pegues, Director, Admin. Svcs.  
 AGENCY Department of Law  
 Original: Legislative Finance PHONE 465-3672  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

ALASKA STATE LEGISLATURE

TWELFTH. Legislature FIRST.... Session

HOUSE ....BILL..... NO. ...546.

By THE STATE AFFAIRS COMMITTEE  
BY REQUEST

"An Act relating to state contracts for professional services and establishing a penalty for violation of provisions of law relating to professional service contracts; and providing for an effective date."

State contracts/estab. penalty for violation of provisions

Introduced in the House 4/30....., 19..81

HISTORY IN THE HOUSE

1981	Read first time and referred to Committee on											
Apr 30 Nov 5	State Affairs <i>Ordinary added</i> Reported back with recommendation that											
	Read second time and											
	Read third time and											
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	
PASS	Effective Date											
Yeas	Yeas											
Nays	Nays											
Absent	Absent											
Excused	Excused											
	<table border="0"> <tr><td>Reconsideration</td></tr> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	Reconsideration	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
Reconsideration												
PASS	Effective Date											
Yeas	Yeas											
Nays	Nays											
Absent	Absent											
Excused	Excused											
	Reported correctly engrossed Signed by Speaker Sent to Senate											
	CHIEF CLERK OF THE HOUSE											

HISTORY IN THE SENATE

19	Read first time and referred to Committee on											
	Reported back with recommendation that											
	Read second time and											
	Read third time and											
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused	
PASS	Effective Date											
Yeas	Yeas											
Nays	Nays											
Absent	Absent											
Excused	Excused											
	<table border="0"> <tr><td>Reconsideration</td></tr> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	Reconsideration	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
Reconsideration												
PASS	Effective Date											
Yeas	Yeas											
Nays	Nays											
Absent	Absent											
Excused	Excused											
	Reported correctly engrossed Signed by President Returned to House											
	SECRETARY OF THE SENATE											

HISTORY IN THE HOUSE

19	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor  ..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

HB 546

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 546  
 Title An Act Relating to State Contracts for Professional Services  
 Requested by House State Affairs Date 3/5/82

II. FISCAL DETAIL

Agency Affected All  
 Program Category Affected All  
 BRU, Program, Or Subprogram(s) Affected All  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	250.0	270.0	291.6	314.9	340.1	367.3
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>250.0</b>	<b>270.0</b>	<b>291.6</b>	<b>314.9</b>	<b>340.1</b>	<b>367.3</b>

FUNDING (Thousands of Dollars)

	250.0	270.0	291.6	314.9	340.1	367.3
GENERAL FUND	250.0	270.0	291.6	314.9	340.1	367.3
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS

	0	0	0	0	0	0
FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

Advertisements:

\$50 per ad) x (3 ads) x (3 papers--Juneau, Anchorage, Fairbanks) x 700 contracts less (\$100,000 spent in FY 81) \$215,000

RFP Printing and Mailing  
 EST based on Multi-page RFP 35,000  
\$250,000

IV. DATE March 26, 1982 PREPARED BY George Elgee *Elgee*

Original: Legislative Finance AGENCY Administration  
 cc: Budget and Management PHONE 465-2250

Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 546  
 Title An Act Relating to State Contracts for Professional Services  
 Requested by House State Affairs Date 3/5/82

II. FISCAL DETAIL

Agency Affected Administration  
 Program Category Affected Centralized Administration  
 BRU, Program, Or Subprogram(s) Affected Accounting  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	67.5	72.9	78.7	84.9	91.6	98.9
200 TRAVEL	-					
300 CONTRACTUAL	238.4	257.4	277.9	300.1	324.1	350.0
400 COMMODITIES	1.5	1.6	1.7	1.8	1.9	2.0
500 EQUIPMENT	12.6	13.6	14.6	15.7	16.9	18.2
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>320.0</b>	<b>345.5</b>	<b>372.9</b>	<b>402.5</b>	<b>434.5</b>	<b>469.1</b>

FUNDING (Thousands of Dollars)

GENERAL FUND	320.0	345.5	372.9	402.5	434.5	469.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	2	2	2	2	2	2
PART TIME						
TEMPORARY						

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

Contractual

Computer Program Development:

Register Development  
 Evaluation System/Form/Tracking System  
 Application form  
 On-line Capabilities 160.0  
 Printing of Labels 4.0  
 Printing of Applications 1.0

IV. DATE March 26, 1982 PREPARED BY George Elgee *GE*  
 AGENCY Administration  
 Original: Legislative Finance PHONE 465-2250  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

Contractual

Procedures:

Training in procuring contracts and operating  
within new regulations  
Re-write of Existing Procedures  
Administration Code Drafts  
Administration Code Public Hearings

60.0

Advertising:

Professional Listing

5.4

Services associated with required positions --  
phone, office space, computer terminal rental, etc.

8.0

\$238.4

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

HB 546

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 546  
 Title For an Act Relating to State Contracts for Professional Services, etc.  
 Requested by State Affairs Committee Date 3/15/82

II. FISCAL DETAIL

Agency Affected \_\_\_\_\_  
 Program Category Affected \_\_\_\_\_  
 BRU, Program, Or Subprogram(s) Affected \_\_\_\_\_  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
	0	0	0	0	0	0

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY	0	0	0	0	0	0

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

IV. DATE 3/15/82 PREPARED BY Colonel Robert J. Stickles  
 AGENCY Dept. of Public Safety  
 Original: Legislative Finance PHONE 269-5532  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. CSHB 545 7103  
 Title "An Act relating to state contracts for professional services and  
Requested by Repr. Barnes, House Judiciary Date March 21, 1982  
establishing penalties....and providing for an effective date."

II. FISCAL DETAIL  
 Agency Affected Department of Law  
 Program Category Affected General Government  
 BRU, Program, Or Subprogram(s) Affected Legal Services  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

This clarifies and improves the state's procurement practices for professional services. The current bill (offered 3/5/82) provides departments with the flexibility to meet exigent circumstances while, at the same time, assuring that the public interest in competition is properly served. Although some slight expense will be incurred in complying with the bill, no additional resources will be required to carryout its provisions.

IV. DATE March 24, 1982 PREPARED BY Richard I. Pegues, Director, Admin. Svcs.  
 AGENCY Department of Law  
 Original: Legislative Finance PHONE 465-3672  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

Original sponsor: State Affairs Committee  
by request

Offered: 3/5/82  
Referred: Judiciary

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 546 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state contracts for professional  
7 services and establishing a penalty for violation of  
8 provisions of law relating to professional service  
9 contracts; and providing for an effective date."

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

11 \* Section 1. AS 19.10.170(a) is amended to read:

12 (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
13 the general policy of the department to require the construction of all  
14 highways under bid contract. However, subject to the provisions of (b)  
15 of this section, when the estimated cost of a construction project is  
16 less than \$100,000 or when it appears to be in the best interests of the  
17 state, the department may perform the work notwithstanding any other  
18 provisions of law.

19 \* Sec. 2. AS 35.15.010(a) is amended to read:

20 (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
21 the general policy of the department to require the construction of all  
22 public works under bid contract. However, when the estimated cost of a  
23 construction project is less than \$100,000, or when it appears to be in  
24 the best interests of the state, the department may perform the work,  
25 notwithstanding any other provisions of law. A complete record shall be  
26 kept by the commissioner or his designee of all transactions entered  
27 into under this section including names of employees involved in the  
28 transactions.

29 \* Sec. 3. AS 36 is amended by adding a new chapter to read:

1                   CHAPTER 98. PROFESSIONAL SERVICES CONTRACTS.

2                   Sec. 36.98.010. APPLICATION. (a) Except as provided in AS 36.98.-  
3 080, this chapter applies to contracts for professional services provided  
4 to a state agency unless

5                   (1) the total amount of a contract does not exceed \$25,000;

6                   (2) the contract is an employment contract for services to be  
7 performed under direct supervision regardless of the existence of an  
8 employer-employee relationship and a written justification signed by the  
9 person responsible for awarding the contract is filed with the commis-  
10 sioner;

11                   (3) the contract is for construction, repair, or maintenance  
12 of a public work and the total amount of a contract does not exceed  
13 \$50,000;

14                   (4) the contract is awarded based on competitive bids ob-  
15 tained under the procedure provided in AS 37.05.230.

16                   (b) The commissioner may by regulation adjust the dollar limita-  
17 tions set out in (a) of this section to reflect changes in the consumer  
18 price index for Anchorage since July 1, 1982. However, the commissioner  
19 may not make this adjustment more frequently than every other year.

20                   Sec. 36.98.020. PROFESSIONAL SERVICES CONTRACTORS REGISTER. (a)  
21 A person or firm who desires to provide professional services to a state  
22 agency shall submit to the commissioner a statement of qualifications  
23 and performance data, and any other information that the commissioner,  
24 by regulation, may require.

25                   (b) The commissioner may at any time require the person or firm to  
26 revise the statement of qualifications and performance data or any other  
27 information submitted by the person or firm if the commissioner believes  
28 that the credentials or record of experience of the person have materi-  
29 ally changed since the last filing by the person or firm.

Original sponsor: State Affairs Committee  
by request

Offered: 3/5/82  
Referred: Judiciary

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 546 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state contracts for professional  
7 services and establishing a penalty for violation of  
8 provisions of law relating to professional service  
9 contracts; and providing for an effective date."

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

11 \* Section 1. AS 19.10.170(a) is amended to read:

12 (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
13 the general policy of the department to require the construction of all  
14 highways under bid contract. However, subject to the provisions of (b)  
15 of this section, when the estimated cost of a construction project is  
16 less than \$100,000 or when it appears to be in the best interests of the  
17 state, the department may perform the work notwithstanding any other  
18 provisions of law.

19 \* Sec. 2. AS 35.15.010(a) is amended to read:

20 (a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
21 the general policy of the department to require the construction of all  
22 public works under bid contract. However, when the estimated cost of a  
23 construction project is less than \$100,000, or when it appears to be in  
24 the best interests of the state, the department may perform the work,  
25 notwithstanding any other provisions of law. A complete record shall be  
26 kept by the commissioner or his designee of all transactions entered  
27 into under this section including names of employees involved in the  
28 transactions.

29 \* Sec. 3. AS 36 is amended by adding a new chapter to read:

1           Sec. 36.98.030. SOLICITATION OF SERVICES. (a) When a state  
2 agency proposes to enter into a contract for professional services, the  
3 agency shall give public notice soliciting proposals for the profes-  
4 sional services contract by publication at least three times in one or  
5 more newspapers in general circulation in the state. The first notice  
6 shall be published not less than 30 days before the date on which the  
7 agency expects to enter into the contract and each subsequent notice  
8 shall be published at intervals of no more than three days thereafter.  
9 The notice shall include

10           (1) a general description of the proposed project for which  
11 the agency is seeking professional services; and

12           (2) the procedure by which a person or firm interested in the  
13 professional services contract may make its proposal to the agency for  
14 consideration for the contract.

15           (b) In addition to complying with the publication requirements of  
16 (a) of this section, when a state agency proposes to enter into a con-  
17 tract for professional services it shall

18           (1) review the register of professional services contractors  
19 maintained by the commissioner under AS 36.98.020; and

20           (2) provide a request for proposals for the proposed profes-  
21 sional services contract to each prospective contractor who, after  
22 review of the register of professional services contractors under (1) of  
23 this subsection, the agency finds is qualified for consideration for the  
24 contract.

25           (c) A request for proposals must be extended to a sufficient  
26 number of prospective providers of the required services to assure that  
27 public interest in competition is adequately served. Proposals from at  
28 least six persons or firms shall be solicited for contracts equal to or  
29 greater than \$100,000 if the expertise required is available. Proposals

1 from at least three persons or firms shall be solicited for contracts of  
2 less than \$100,000 if the expertise required is available. If the exper-  
3 tise required is not available to enable an agency to solicit the number  
4 of proposals otherwise required under this subsection, the agency shall

5 (1) solicit proposals from each person or firm listed on the  
6 professional services contractors register maintained under AS 36.98.020  
7 who appears to possess the required expertise;

8 (2) publish notice soliciting proposals as required under (a)  
9 of this section; and

10 (3) solicit proposals from each other person or firm possess-  
11 ing the required expertise of which the agency is aware.

12 (d) The provisions of this section do not apply if

13 (1) the contracting agency demonstrates that there is a  
14 single source of the expertise or knowledge required or that one person  
15 or firm can clearly perform the required tasks more satisfactorily  
16 because of the person's or firm's prior work; however, this exemption  
17 applies only when the head of the state agency has submitted a written  
18 request to the commissioner that details the reasons for the exemption  
19 and the commissioner or his designee has authorized the state agency to  
20 enter contract negotiations with the single source;

21 (2) the commissioner determines that public necessity will  
22 not permit delay incident to the procedures otherwise required by this  
23 chapter; or

24 (3) the service is to be provided by another state agency, a  
25 federal agency, the University of Alaska, or a political subdivision of  
26 the state.

27 (e) A request for proposals must contain a description of the work  
28 to be performed under the contract and the terms under which the work is  
29 to be performed. A request for proposals must contain that information

1 necessary for a prospective contractor to submit a response or contain  
2 references to any information that cannot reasonably be included with  
3 the request. The request for proposals must provide a description of  
4 the factors that will be considered by the state agency when it evaluates  
5 the proposals received.

6 (f) Nothing in this section limits the authority of an agency to  
7 use additional means that it may consider appropriate to notify prospec-  
8 tive contractors that it proposes to enter into a contract for profes-  
9 sional services.

10 Sec. 36.98.040. AWARD OF CONTRACT. (a) After the responses are  
11 submitted, the state agency shall evaluate them. The evaluation shall  
12 consist of assigning point values to factors considered by the agency in  
13 evaluating each proposal. All proposals received must be evaluated  
14 using the same factors as those set out in the request for proposal.

15 (b) The contract must be executed by the contractor and the pro-  
16 ject director for the contracting agency and be approved by the head of  
17 the contracting agency or his designee. If a contract is made by a  
18 board or commission, execution of the contract on behalf of the board or  
19 commission must be authorized by the board or commission.

20 (c) A contract subject to this chapter must be submitted to the  
21 commissioner for review and approval and, if approved, is effective from  
22 the date of the approval. A state agency must clearly provide in the  
23 request for proposal that the state is not obligated to perform under  
24 the contract until the approval required by this subsection is granted.

25 (d) A contract awarded under this chapter shall contain:

- 26 (1) the amount of the contract stated on its first page;  
27 (2) the date for the work to begin;  
28 (3) the date by which the work must be completed; and  
29 (4) a certification under penalty of perjury by the project

1 director for the contracting agency, the head of the contracting agency,  
2 or his designee that sufficient funds are available in an appropriation  
3 to be encumbered for the amount of the contract.

4 (e) If the contract contains terms that are not provided in a  
5 state standard form contract or if the standard terms are deleted or  
6 modified by other terms that are not standard, the contract must be  
7 reviewed by the Department of Law and approved as to form. The review  
8 and approval required by this subsection must be completed before award  
9 of the contract to the successful contractor.

10 Sec. 36.98.050. CONTRACT ADMINISTRATION. (a) When a state agency  
11 has entered into a professional services contract, the agency is respon-  
12 sible for the diligent administration and monitoring of the performance  
13 of the provisions of the contract.

14 (b) When a professional services contract has been completed, the  
15 state agency shall evaluate the performance of the contractor under the  
16 contract and shall report on and evaluate the use of the final product  
17 of the professional services contract. A copy of the report and evalua-  
18 tion prepared under this subsection shall be transmitted to the commis-  
19 sioner and shall be retained by the commissioner for as long as he is  
20 required to maintain copies of completed contracts.

21 Sec. 36.98.060. FILING. A copy of each contract and the response  
22 to the request for proposal upon which the contract was awarded must be  
23 filed with both the Department of Administration and the contracting  
24 agency and is open for public inspection. The request for proposal and  
25 the name and address of each person who submitted a response to it must  
26 also accompany the filed copies.

27 Sec. 36.98.070. CONTRACT PROCEDURES. The commissioner shall, by  
28 regulation adopted in accordance with the Administrative Procedure Act  
29 (AS 44.62), establish the manner and form by which state professional

1 services contracts shall be prepared and processed, including, but not  
2 limited to, a review process for persons aggrieved under this chapter.

3 Sec. 36.98.080. CONTRACTS FOR ARCHITECTURAL, ENGINEERING, AND LAND  
4 SURVEYING SERVICES. (a) The state shall select persons or firms and  
5 award contracts for the performance of architectural, engineering, or  
6 land surveying services on the basis of competence and qualification for  
7 the type of professional services required. The amount of the contract  
8 shall be determined by negotiation for those services at fair and rea-  
9 sonable prices or by the competitive bidding procedures provided under  
10 AS 37.05.230. Before negotiations or competitive bidding procedures  
11 under this section, the state may not request or consider any statement,  
12 bid or estimate of fees or charges for architectural, engineering, or  
13 land surveying services for the proposed project or request any other  
14 submission or action that would violate AS 08.48 or a regulation adopted  
15 under AS 08.48.

16 (b) In awarding a contract by negotiation for the services of an  
17 architect, engineer, or land surveyor registered under AS 08.48, the  
18 state shall negotiate with the three best qualified persons or firms to  
19 perform the desired work on the basis of competence and professional  
20 qualifications. The state may reject all or part of a proposal.

21 (c) The provisions of AS 36.98.040(a) do not apply to contracts  
22 awarded under this section.

23 (d) This section does not apply to a contract for the performance  
24 of architectural, engineering, or land surveying services if the commis-  
25 sioner determines that public necessity will not permit delay incident  
26 to the procedures otherwise required by this section.

27 Sec. 36.98.090. DEFINITIONS. In this chapter

28 (1) "commissioner" means the commissioner of administration;  
29 however, in the case of contracts issued by the Department of Transpor-

1 tation and Public Facilities, it means the commissioner of transporta-  
2 tion and public facilities;

3 (2) "professional services contract" means a contract for  
4 professional, technical, or consultant's services that are predominantly  
5 intellectual in character and that

6 (A) include analysis, evaluation, prediction, planning,  
7 or recommendation; and

8 (B) result in the production of a report or the comple-  
9 tion of a task;

10 (3) "public necessity" means an urgent public need that could  
11 not have been anticipated or foreseen; the term also includes emergency  
12 situations when work is necessary to protect life or property;

13 (4) "request for proposals" means a written solicitation for  
14 contract proposals by prospective contractors that sets out the nature  
15 of the services to be performed or product to be secured with sufficient  
16 information for a qualified prospective contractor to prepare a contract  
17 proposal for consideration and evaluation by the state agency;

18 (5) "state agency" means a department, institution, board,  
19 commission, division, or other administrative unit of the executive  
20 branch of state government, and the University of Alaska.

21 \* Sec. 4. AS 37.05.230 is amended by adding a new paragraph to read:

22 (9) requests for and acceptance of bids or other proposals  
23 for professional services shall comply with AS 36.98.

24 \* Sec. 5. AS 37.05.240 is amended by adding a new subsection to read:

25 (b) A contract for professional services shall be awarded in  
26 accordance with AS 36.98.

27 \* Sec. 6. This Act applies to requests for bids or proposals for profes-  
28 sional services issued after the effective date of this Act.

29 \* Sec. 7. This Act takes effect July 1, 1982.

Original sponsor: State Affairs Committee  
by request

Offered: 4/5/82  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 546 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to state contracts for professional  
7 services; and providing for an effective date."

8

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

9

\* Section 1. AS 19.10.170(a) is amended to read:

10

(a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
11 the general policy of the department to require the construction of all  
12 highways under bid contract. However, subject to the provisions of (b)  
13 of this section, when the estimated cost of a construction project is  
14 less than \$100,000 or when it appears to be in the best interests of the  
15 state, the department may perform the work notwithstanding any other  
16 provisions of law.

17

\* Sec. 2. AS 35.15.010(a) is amended to read:

18

(a) Except as provided in AS 36.98 and AS 44.33.300, it shall be  
19 the general policy of the department to require the construction of all  
20 public works under bid contract. However, when the estimated cost of a  
21 construction project is less than \$100,000, or when it appears to be in  
22 the best interests of the state, the department may perform the work,  
23 notwithstanding any other provisions of law. A complete record shall be  
24 kept by the commissioner or his designee of all transactions entered  
25 into under this section including names of employees involved in the  
26 transactions.

27

\* Sec. 3. AS 36 is amended by adding a new chapter to read:

28

CHAPTER 98. PROFESSIONAL SERVICES CONTRACTS.

29

Sec. 36.98.010. APPLICATION. Except as provided in AS 36.98.080,

1 this chapter applies to contracts for professional services provided to  
2 a state agency unless

3 (1) the total amount of a contract does not exceed \$5,000;

4 (2) the contract is an employment contract for services to be  
5 performed under direct supervision regardless of the existence of an  
6 employer-employee relationship and a written justification signed by the  
7 person responsible for awarding the contract is filed with the commis-  
8 sioner;

9 (3) the contract is for construction, repair, or maintenance  
10 of a public work and the total amount of a contract does not exceed  
11 \$100,000;

12 (4) the contract is awarded based on competitive bids ob-  
13 tained under the procedure provided in AS 37.05.230.

14 Sec. 36.98.020. PROFESSIONAL SERVICES CONTRACTORS REGISTER. The  
15 commissioner shall establish and maintain a register of all persons or  
16 firms interested in providing professional services to the state.

17 Sec. 36.98.030. SOLICITATION OF SERVICES. (a) When a state  
18 agency proposes to enter into a contract for professional services, the  
19 agency shall give public notice soliciting proposals for the profes-  
20 sional services contract by publication at least three times in one or  
21 more newspapers in general circulation in the state. The first notice  
22 shall be published not less than 30 days before the date on which the  
23 agency expects to enter into the contract and each subsequent notice  
24 shall be published at intervals of no more than three days thereafter.  
25 The notice shall include

26 (1) a general description of the proposed project for which  
27 the agency is seeking professional services; and

28 (2) the procedure by which a person or firm interested in the  
29 professional services contract may make its proposal to the agency for

1 consideration for the contract.

2 (b) In addition to complying with the publication requirements of  
3 (a) of this section, when a state agency proposes to enter into a con-  
4 tract for professional services it shall

5 (1) review the register of professional services contractors  
6 maintained by the commissioner under AS 36.98.020; and

7 (2) provide a request for proposals for the proposed profes-  
8 sional services contract to each prospective contractor who, after  
9 review of the register of professional services contractors under (1) of  
10 this subsection, the agency finds is qualified for consideration for the  
11 contract.

12 (c) A request for proposals must be extended to a sufficient  
13 number of prospective providers of the required services to assure that  
14 public interest in competition is adequately served. Proposals from at  
15 least six persons or firms shall be solicited for contracts equal to or  
16 greater than \$100,000 if the expertise required is available. Proposals  
17 from at least three persons or firms shall be solicited for contracts of  
18 less than \$100,000 if the expertise required is available. If the  
19 expertise required is not available to enable an agency to solicit the  
20 number of proposals otherwise required under this subsection, the agency  
21 shall

22 (1) solicit proposals from each person or firm listed on the  
23 professional services contractors register maintained under AS 36.98.020  
24 who appears to possess the required expertise;

25 (2) publish notice soliciting proposals as required under (a)  
26 of this section; and

27 (3) solicit proposals from each other person or firm possess-  
28 ing the required expertise of which the agency is aware.

29 (d) The provisions of this section do not apply if

1 (1) the contracting agency demonstrates that there is a  
2 single source of the expertise or knowledge required or that one person  
3 or firm can clearly perform the required tasks more satisfactorily  
4 because of the person's or firm's prior work and the head of the state  
5 agency submits a written request to the commissioner of administration  
6 detailing the reasons for an exemption and the commissioner of adminis-  
7 tration or his designee authorizes the state agency to enter contract  
8 negotiations with the single source;

9 (2) the commissioner determines that public necessity will  
10 not permit delay incident to the procedures otherwise required by this  
11 chapter; or

12 (3) the service is to be provided by another state agency, a  
13 federal agency, or a political subdivision of the state.

14 (e) A request for proposals must contain a description of the work  
15 to be performed under the contract and the terms under which the work is  
16 to be performed. A request for proposals must contain that information  
17 necessary for a prospective contractor to submit a response or contain  
18 references to any information that cannot reasonably be included with  
19 the request. The request for proposals must provide a description of  
20 the factors that will be considered by the state agency when it evalu-  
21 ates the proposals received.

22 (f) Nothing in this section limits the authority of an agency to  
23 use additional means that it may consider appropriate to notify prospec-  
24 tive contractors that it proposes to enter into a contract for profes-  
25 sional services.

26 Sec. 36.98.040. AWARD OF CONTRACT. (a) After the responses are  
27 submitted, the state agency shall evaluate them. The evaluation shall  
28 consist of assigning point values to factors considered by the agency in  
29 evaluating each proposal. All proposals received must be evaluated

1 using the same factors as those set out in the request for proposal.

2 (b) The contract must be executed by the contractor and the pro-  
3 ject director for the contracting agency and be approved by the head of  
4 the contracting agency or his designee. If a contract is made by a  
5 board or commission, execution of the contract on behalf of the board or  
6 commission must be authorized by the board or commission.

7 (c) A contract subject to this chapter must be submitted to the  
8 commissioner for review and approval and, if approved, is effective  
9 from the date of the approval. A state agency must clearly provide  
10 in the request for proposal that the state is not obligated to perform  
11 under the contract until the approval required by this subsection is  
12 granted.

13 (d) A contract awarded under this chapter shall contain:  
14 (1) the amount of the contract stated on its first page;  
15 (2) the date for the work to begin;  
16 (3) the date by which the work must be completed; and  
17 (4) a certification under penalty of perjury by the project  
18 director for the contracting agency, the head of the contracting agency,  
19 or his designee that sufficient funds are available in an appropriation  
20 to be encumbered for the amount of the contract.

21 (e) If the contract contains terms that are not provided in a  
22 state standard form contract or if the standard terms are deleted or  
23 modified by other terms that are not standard, the contract must be  
24 reviewed by the Department of Law and approved as to form. The review  
25 and approval required by this subsection must be completed before award  
26 of the contract to the successful contractor.

27 Sec. 36.98.050. CONTRACT ADMINISTRATION. (a) When a state agency  
28 has entered into a professional services contract, the agency is respon-  
29 sible for the diligent administration and monitoring of the performance

1 of the provisions of the contract.

2 (b) When a professional services contract has been completed, the  
3 state agency shall evaluate the performance of the contractor under the  
4 contract and shall report on and evaluate the use of the final product  
5 of the professional services contract. A copy of the report and evalua-  
6 tion prepared under this subsection shall be transmitted to the commis-  
7 sioner and shall be retained by the commissioner for as long as he is  
8 required to maintain copies of completed contracts.

9 Sec. 36.98.060. FILING. A copy of each contract and the response  
10 to the request for proposal upon which the contract was awarded must be  
11 filed with both the Department of Administration and the contracting  
12 agency and is open for public inspection. The request for proposal and  
13 the name and address of each person who submitted a response to it must  
14 also accompany the filed copies.

15 Sec. 36.98.070. CONTRACT PROCEDURES. The commissioner shall, by  
16 regulation adopted in accordance with the Administrative Procedure Act  
17 (AS 44.62), establish the manner and form by which state professional  
18 services contracts shall be prepared and processed, including, but not  
19 limited to, a review process for persons aggrieved under this chapter.

20 Sec. 36.98.080. CONTRACTS FOR ARCHITECTURAL, ENGINEERING, AND LAND  
21 SURVEYING SERVICES. (a) A state agency shall select persons or firms  
22 for the performance of architectural, engineering, or land surveying  
23 services and award contracts for those services on the basis of compe-  
24 tence and qualification for the type of professional services required.

25 (b) The state agency shall attempt to negotiate a contract for the  
26 services with the best qualified person or firm at a price that is fair  
27 and reasonable.

28 (c) Before selection of and negotiation with the best qualified  
29 person or firm, a state agency may not request or consider a statement,

1 bid, or estimate of fees, hourly charges, estimated hours of professional  
2 time, or other estimate of charges for architectural, engineering, or  
3 land surveying services for the proposed project or request any other  
4 submission or action that would constitute a violation of AS 08.48 or a  
5 regulation adopted under AS 08.48. A request for proposals or other  
6 solicitation for services of an architect, engineer, or land surveyor  
7 issued by a state agency may not contain a requirement or request for a  
8 statement, bid, estimate, or other information concerning fees or charges  
9 prohibited under this section.

10 (d) This section does not require a particular procedure for the  
11 selection of architects, engineers, or land surveyors or for the award  
12 of contracts except as provided in (b) and (c) of this section. A state  
13 agency may rank proposals or offers received.

14 (e) The provisions of AS 36.98.040(a) do not apply to contracts  
15 awarded under this section.

16 (f) This section does not apply to a contract for the performance  
17 of architectural, engineering, or land surveying services if the commis-  
18 sioner determines that public necessity will not permit delay incident  
19 to the procedures otherwise required by this section.

20 Sec. 36.98.090. DEFINITIONS. In this chapter

21 (1) "architectural, engineering, or land surveying services"  
22 means professional services involving the practice of architecture,  
23 engineering, or land surveying as defined under AS 08.48.341;

24 (2) "commissioner" means the commissioner of administration;  
25 however, in the case of contracts issued by the Department of Transpor-  
26 tation and Public Facilities, it means the commissioner of transporta-  
27 tion and public facilities;

28 (3) "professional services contract" means a contract for  
29 professional, technical, or consultant's services that are predominantly

1 intellectual in character and that

2 (A) include analysis, evaluation, prediction, planning,  
3 or recommendation; and

4 (B) result in the production of a report or the comple-  
5 tion of a task;

6 (4) "public necessity" means an urgent public need that could  
7 not have been anticipated or foreseen; the term also includes emergency  
8 situations when work is necessary to protect life or property;

9 (5) "request for proposals" means a written solicitation for  
10 contract proposals by prospective contractors that sets out the nature  
11 of the services to be performed or product to be secured with sufficient  
12 information for a qualified prospective contractor to prepare a contract  
13 proposal for consideration and evaluation by the state agency;

14 (6) "state agency" means a department, institution, board,  
15 commission, division, or other administrative unit of the executive or  
16 judicial branch of state government, and the University of Alaska.

17 \* Sec. 4. AS 37.05.230 is amended by adding a new paragraph to read:

18 (9) requests for and acceptance of bids or other proposals  
19 for professional services shall comply with AS 36.98.

20 \* Sec. 5. AS 37.05.240 is amended by adding a new subsection to read:

21 (b) A contract for professional services shall be awarded in  
22 accordance with AS 36.98.

23 \* Sec. 6. This Act applies to requests for bids or proposals for profes-  
24 sional services issued after the effective date of this Act.

25 \* Sec. 7. This Act takes effect July 1, 1982.  
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Introduced: 4/30/81  
Referred: State Affairs

1 IN THE HOUSE

BY THE STATE AFFAIRS  
COMMITTEE BY REQUEST

2 HOUSE BILL NO. 546

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state contracts for professional  
7 services and establishing a penalty for violation of  
8 provisions of law relating to professional service  
9 contracts; and providing for an effective date."

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

11 \* Section 1. AS 36 is amended by adding a new chapter to read:

12 CHAPTER 98. PROFESSIONAL SERVICES CONTRACTS.

13 ARTICLE 1. CONTRACTORS' REGISTER.

14 Sec. 36.98.010. PROFESSIONAL SERVICES CONTRACTORS REGISTER. (a)

15 A person who desires to provide professional services to a state  
16 agency, the judicial branch of state government, or the University of  
17 Alaska shall annually, by a date determined by the commissioner of  
18 administration by regulation, submit to the commissioner a statement of  
19 qualifications and performance data, and any other information which  
20 the commissioner, by regulation, may require.

21 (b) The commissioner may at any time require the person to revise  
22 the statement of qualifications and performance data, or any other  
23 information, submitted by the person before the annual filing date  
24 established by the commissioner under (a) of this section if the com-  
25 missioner believes that the credentials or record of experience of the  
26 person have materially changed since the last filing by the person.

27 ARTICLE 2. STATE AGENCY CONTRACTS.

28 Sec. 36.98.100. PRELIMINARY REQUIREMENTS. (a) When a state  
29 agency proposes to enter into a contract for professional services, the

1 agency shall give public notice of the professional services contract.  
2 At least 30 days before the date on which the agency expects to enter  
3 into the contract for professional services it shall give notice by  
4 publication at least three times in one or more newspapers in general  
5 circulation in the state of

6 (1) a general description of the proposed project for which  
7 the agency is seeking professional services; and

8 (2) the procedure by which a person interested in the pro-  
9 fessional services contract may apply to the agency for consideration  
10 for the contract.

11 (b) In addition to complying with the publication requirements of  
12 (a) of this section, when a state agency proposes to enter into a  
13 contract for professional services it shall

14 (1) review the register of professional services contractors  
15 maintained by the commissioner under AS 36.98.010; and

16 (2) provide a request for proposals for the proposed pro-  
17 fessional services contract to each prospective contractor which, after  
18 review of the register of professional services contractors under (1)  
19 of this subsection, the agency finds is qualified for consideration for  
20 the contract.

21 Sec. 36.98.110. DUTIES OF STATE AGENCY. A state agency may not  
22 enter into a contract for professional services unless the head of the  
23 agency or a certifying officer of the agency certifies to the commis-  
24 sioner that

25 (1) there are no state employees who are competent or avail-  
26 able to perform the services required by the contract;

27 (2) competitive bid provisions are not adequate to secure  
28 the professional services needed to perform the services required by  
29 the contract;

1 (3) the professional services required by the contract are  
2 original in character and not available as a product of a prior con-  
3 sultant;

4 (4) the agency has complied with the provisions of AS 36.98.-  
5 100;

6 (5) the agency has received, reviewed, and accepted a de-  
7 tailed work plan from the contractor for performance of professional  
8 services by the contractor; and

9 (6) the agency has developed and will implement a written  
10 plan by which the agency will

11 (A) assign personnel of the agency to monitor the  
12 performance of the contract;

13 (B) periodically review and make written reports on  
14 partial performance of the contract by the contractor; and

15 (C) use the final product of the contract for profes-  
16 sional services.

17 Sec. 36.98.120. DUTIES OF THE COMMISSIONER. (a) The commis-  
18 sioner shall provide all contract management and review functions for  
19 state agency professional services contracts except those management  
20 and review functions which are assigned by AS 36.98.100 - 36.98.110 to  
21 the state agency. A state agency may not enter into a professional  
22 services contract unless the contract has been approved in writing by  
23 the commissioner.

24 (b) The commissioner shall, by regulation adopted in accordance  
25 with the Administrative Procedure Act (AS 44.62), establish the manner  
26 and form by which state professional services contracts shall be pre-  
27 pared and processed, and shall examine and approve or disapprove pro-  
28 posed professional services contracts based on review of the purpose  
29 and content, propriety, and financial effect of the proposed contract.

1 (c) The commissioner may not approve a proposed professional  
2 services contract unless he first finds that

3 (1) all provisions of AS 36.98.110 have been verified or  
4 complied with by the state agency and that the plan developed by the  
5 agency under AS 36.98.110(6) is satisfactory;

6 (2) the work to be performed under the contract is necessary  
7 for the agency to fulfill a responsibility assigned to it by statute;

8 (3) there is authority in statute for the agency to enter  
9 into the contract;

10 (4) the contract will not establish an employer-employee  
11 relationship between the agency and the contractor or any persons per-  
12 forming under the proposed contract;

13 (5) a state employee will not perform the contract or any  
14 portion of it; and

15 (6) a state agency has not previously performed or con-  
16 tracted for the performance of tasks which would be substantially  
17 duplicated under the proposed professional services contract.

18 Sec. 36.98.130. CONTRACT TERMS AND CONDITIONS. A professional  
19 services contract with a state agency is not valid unless

20 (1) the contract includes a provision by which the agency  
21 may unilaterally terminate the contract, upon payment of just compensa-  
22 tion for professional services rendered under the contract, if the  
23 agency determines that further performance under the contract would not  
24 serve the purposes of the agency or the best interests of the state;

25 (2) the contract contains a termination date; and

26 (3) the contract is executed by the state by

27 (A) the head of the agency which is a party to the  
28 contract; and

29 (B) the commissioner or his designee.

1           Sec. 36.98.140. CONTRACT ADMINISTRATION. (a) When a state  
2 agency has entered into a professional services contract, the agency is  
3 responsible for the diligent administration and monitoring of the  
4 performance of the provisions of the contract.

5           (b) The commissioner may require a state agency to report to him  
6 at any time on the current status of a professional services contract  
7 to which the agency is a party.

8           (c) When a professional services contract has been completed, the  
9 state agency shall evaluate the performance of the contractor under the  
10 contract and shall report on and evaluate the use of the final product  
11 of the professional services contract. A copy of the report and  
12 evaluations prepared under this subsection shall be transmitted to the  
13 commissioner, and shall be retained by the commissioner for as long as  
14 he is required to maintain copies of completed contracts.

15           Sec. 36.98.150. EXCEPTIONS. The provisions of AS 36.98.100 -  
16 36.98.150 do not apply to a professional services contract for which  
17 the estimated cost of the professional services to be provided is  
18 \$2,500 or less.

19                           ARTICLE 3. GENERAL PROVISIONS.

20           Sec. 36.98.200. DEFINITIONS. In this chapter

21           (1) "commissioner" means the commissioner of administration;

22           (2) "professional services contract" means a contract for  
23 professional, technical, or consultant's services which are predomi-  
24 nantly intellectual in character and which

25                           (A) include analysis, evaluation, prediction, planning  
26 or recommendation; and

27                           (B) result in the production of a report or the comple-  
28 tion of a task;

29           (3) "state agency" means a department, institution, board,

1 commission, division, or other administrative unit of the executive  
2 branch of state government; the term does not include the University of  
3 Alaska.

4 \* Sec. 2. AS 14.40 is amended by adding a new section to article 3 to  
5 read:

6 Sec. 14.40.455. PROFESSIONAL SERVICES CONTRACTS. (a) When the  
7 University of Alaska proposes to enter into a contract for professional  
8 services, it shall give public notice of the professional services  
9 contract. At least 30 days before the date on which the University of  
10 Alaska expects to enter into the contract for professional services it  
11 shall give notice by publication at least three times in one or more  
12 newspapers in general circulation in the state of

13 (1) a general description of the proposed project for which  
14 the University of Alaska is seeking professional services; and

15 (2) the procedure by which a person interested in the pro-  
16 fessional services contract may apply to the University of Alaska for  
17 consideration for the contract.

18 (b) In addition to complying with the publication requirements of  
19 (a) of this section, when the University of Alaska proposes to enter  
20 into a contract for professional services it shall

21 (1) review the register of professional services contractors  
22 maintained by the commissioner of administration under AS 36.98.010;  
23 and

24 (2) provide a request for proposals for the proposed pro-  
25 fessional services contract to each prospective contractor which, after  
26 review of the register of professional services contractors under (1)  
27 of this subsection, the University of Alaska finds is qualified for  
28 consideration for the contract.

29 (c) A member of the Board of Regents, or an officer or employee

1 of the University of Alaska may not enter into a professional services  
2 contract on behalf of the University of Alaska in violation of the  
3 provisions of this section. A person who wilfully violates a provision  
4 of this section is guilty of a misdemeanor. A person who is convicted  
5 of a misdemeanor under this section immediately forfeits his office or  
6 position.

7 (d) In this section, "professional services contract" means a  
8 contract for professional, technical, or consultant's services which  
9 are predominantly intellectual in character and which

10 (1) include analysis, evaluation, prediction, planning or  
11 recommendation; and

12 (2) result in the production of a report or the completion  
13 of a task.

14 \* Sec. 3. AS 22.20 is amended by adding a new section to read:

15 ARTICLE 4. PROFESSIONAL SERVICES CONTRACTS.

16 Sec. 22.20.200. PROFESSIONAL SERVICES CONTRACTS. (a) When a  
17 judicial officer or an employee of the judicial system proposes to  
18 enter into a contract for professional services, the judicial officer  
19 or the employee shall give public notice of the professional services  
20 contract. At least 30 days before the date on which the judicial  
21 officer or the employee expects to enter into the contract for profes-  
22 sional services, the judicial officer or the employee shall give notice  
23 by publication at least three times in one or more newspapers in general  
24 circulation in the state of

25 (1) a general description of the proposed project for which  
26 the judicial officer or the employee is seeking professional services;  
27 and

28 (2) the procedure by which a person interested in the pro-  
29 fessional services contract may apply to the judicial officer or the

1 employee for consideration for the contract.

2 (b) In addition to complying with the publication requirements of  
3 (a) of this section, when a judicial officer or an employee proposes to  
4 enter into a contract for professional services, the judicial officer  
5 or the employee shall

6 (1) review the register of professional services contractors  
7 maintained by the commissioner of administration under AS 36.98.010;  
8 and

9 (2) provide a request for proposals for the proposed pro-  
10 fessional services contract to each prospective contractor which, after  
11 review of the register of professional services contractors under (1)  
12 of this subsection, the judicial officer or the employee finds is  
13 qualified for consideration for the contract.

14 (c) A judicial officer or an employee of the judicial system may  
15 not enter into a professional services contract on behalf of the judi-  
16 cial system in violation of the provisions of this section. A judicial  
17 officer or an employee who wilfully violates a provision of this section  
18 is guilty of a misdemeanor. An employee who is convicted of a mis-  
19 demeanor under this section immediately forfeits his position.

20 (d) In this section,

21 (1) "employee" means an employee of the judicial system who  
22 is not a judicial officer;

23 (2) "professional services contract" means a contract for  
24 professional, technical, or consultant's services which are predomi-  
25 nantly intellectual in character and which

26 (A) include analysis, evaluation, prediction, planning  
27 or recommendation; and

28 (B) result in the production of a report or the comple-  
29 tion of a task.

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\* Sec. 4. AS 39.25.160 is amended by adding a new subsection to read:  
    (i) A person may not enter into a professional services contract  
    on behalf of a state agency in violation of the provisions of AS 36.98.  
\* Sec. 5. This Act takes effect July 1, 1981.